

VINDICIAE JURIS REGII:

OR,

REMARQUES

UPON A

PAPER,

Entitled,

AN ENQUIRY

INTO THE

MEASURES of SUBMISSION

TO THE

Supream Authority.

LONDON,

Printed in the Year MDCLXXXIX.

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ERRATA.

Page 11. line 5. after *Inguipba*, add Hist. Croyl. p. 15. l. 17. for Liberty read Liberties. p. 21. l. 5. for Liberties r. Liberty. *Ibid.* l. 34. for Canquered r. Conquered. p. 28. l. 26. f. *Felo* r. *Felo's*. p. 30. l. 3. f. Distracted r. Disgusted. p. 31. l. 18. f. parts r. starts. p. 32. l. 28. f. Salves r. Salvo's. *Ibid.* l. ult. f. into experience r. in experience. p. 34. l. 14. f. those r. these. p. 36. l. 16. after of, add that. pag. 37. l. 31. for unjustifybale r. unjustifiable. p. 40. l. 20. f. strow'd r. allowed. p. 41. l. 7. f. as in r. is in. p. 42. l. 28. after from, add the. *Ibid.* l. 34. f. abainst r. against. p. 43. l. 13. f. purose r. purpose. *Ibid.* l. 21. f. Character r. Charter. p. 45. l. 4. f. as its r. its as. p. 46. l. ult. f. penalty r. penaly's. p. 48. l. 25. after more add of. *Ibid.* l. 30. f. thy Charge r. their Charge.

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VINDICIÆ JURIS REGII:
 O R
 REMARQUES
 UPON A
 P A P E R;

Entituled,
 An Enquiry into the Measures of
 Submission to the Supream Au-
 thority.

ONE Reason why I did not Answer this Extraordinary Enquiry any sooner, was because the generality of the Nation, at the first publishing it, had their imaginations so much disturbed with Lies and Imposture, that till the strength of the Charm was a little spent, there was no dealing with them: But now since they are come to sham-jewes, and the Eclipse of their Understandings is pretty well over; I will venture to show them the False and Dangerous Reasonings of this Paper if I can.

Our Author saies it down for certain, *That the Law of Nature doe*

put no difference, or subordination among Men, except it be that of Children to Parents, or of Wives to their Husbands; so that with relation to the Law of Nature, all Men are born Free. What? Born free, and in subordination to their Parents too! that is somewhat hard: This Privilege, according to his own Reasoning, has been out of doors long since, and could never be claimed by any but those who immediately descended from *Lucius's Bladder*. If he meant, that we are naturally subject to none but our Parents and Husbands; this, I believe, will not hold neither. For it seems pretty plain from Scripture, That the Younger Children are all born under the jurisdiction of their Elder Brother. I shall only mention Two Texts in proof of this Proposition: The First is, *Gen. 4. 7.* where God gives *Cain* a superiority over his Younger Brother *Abel*, in the same Words in which he had before framed it to *Adam* over *Eve*. Now it is generally acknowledged, that *Adam* was her King, as well as her Husband. The Enquirer himself owns thus much, by saying, *That Matrimony naturally puts a Woman into a state of Subjection*. Now this Authority which was given to *Cain*, seems to be a standing Privilege of Primogeniture, for the better Government of Families: For *Cain's* behaviour was not so meritorious as to deserve an Extraordinary Favour; neither had *Abel* done any thing to forfeit his Natural Liberty. If it is objected, that this Privilege of *Cain*, thus interpreted, destroys *Adam's* Patriarchal Authority, sets up Two Concurrent Jurisdictions, and makes the Younger Children subject to Two Independent Princes, their Father and Elder Brother.

To this I Answer, That this Inconvenience will not follow, provided the reasonable Supposition be but allowed, viz. That the Exercise of this Prerogative of Birth-right, was not to Commence immediately upon the Grant, but to lie Dormant till *Adam's* Decease, as being no more than a Reversion of Power.

The other Text is, *Gen. 49. 3.* where *Reuben*, according to the Hebrew way of speaking, is called the Excellency of Dignity, and the Excellency of Power: That is, He was to have been by virtue of his Primogeniture, a Person of the greatest Quality and Authority in the Family. For though God deprived him of this Honor upon the account of his sin; yet the manner of his Father's Reproof does sufficiently discover the Natural Right, and therefore the Learned *Grotius* observes upon this Place, and upon *Deut. 21. 17.* That Elder Brothers, at such, had not only the Advantage of a double Portion of Inheritance, but were likewise Princes and Princes in such Families. Now if the Younger Children ought always to be governed either by their Father, their Elder Brother, or those who claim under him; then certainly the State of Nature is not such a State of Liberty, as the Enquirer supposes.

But this Particular Nation, being not much material to the present Dispute, I shall insist no further upon it.

His second Section continues us in our Original Liberty, and therefore, I suppose, it's design'd to inform Independent Governors, of the Right the Law of Nature allows them to defend themselves, and how far they may proceed for Reparation of Injuries. His Assertion is, That the Duty of Self-preservation runs it self in instances of two sorts; either in resisting Violent Aggressors, or in taking Just Revenge of those who have invaded us so secretly, that we could not prevent them; and so violently, that we could not resist them: In which Cases, Self-preservation warrants us, both to recover what is our own, with Just Damages, and also to put such Unjust Persons out of a Capacity of doing the like Injuries any more, either to our selves or others. But here we may observe,

First, That the Case is very Generally, and consequently Obscurely Stated: For we are not at all enlighten'd about the Measures of those Just Revenge and Damages. But this Point is Prudently left to the Ignorance, Ambition, and Ill-nature of every Man, to interpret as he pleases. And lest we should not revenge our selves deep enough, the Enquirer gives us this Encouragement, *That Self-preservation warrants us to put such Unjust Persons out of a Capacity, &c.* That is, If we were in the State of Nature, we ought to Kill, Dismember, or lay every Man in Chains, who has done us any injury, great or small, (for our Author makes no Exceptions for Mercy) is being impossible to disable him without proceeding to this Rigour: for as long as he has Life, Limb, or Liberty, he may do the World a Mischief with them, if he has a mind to it. But,

Secondly, I do not understand what Advantage the Enquirer can make of this Terrible Denomination against Aggressors and Invaders: and much question whether he has Fortified his own Security by this Way of Reasoning. But possibly this Battery is rais'd against the French King, for the Service of the Empire: For he has seem'd to wish, some years since, *That the Grand Louis might be reduced to an humble Figure.* Indeed that Monarch (if he be not misrepresented) is considerably to blame for sending an Army against the Empire, without giving notice of it first, or demanding Satisfaction in a Publick and Peaceable Way. These Unproclaimed Expeditions have been always thought unjustifiable, and contrary to the Law of Nature and Nations. For those who have a just Tenderness for the Lives of Men; who have any Regard to Justice, or the *Repose of Christendom*, will try all other Arguments before they Dispute the Cause at the Sword Point. For, besides the Roughness of such a Method, if Princes should make a practice of invading each other without warning, Men would be almost oblig'd to sleep

Asp in Armour, and the World must be always kept up in a posture of Defence, for fear of being surprized: Now this would be a very troublesome and expensive way of Living; and make all Neighbouring Kingdoms especially, very distrustful of, and disaffected towards each other. I know His most Christian Majesty complains in his Memorial, That He has been ill used by the Court of France; but then He might have pleased to have told the Emperor so, before the Siege of Philipsburgh. And the Action was still more Unaccountable, if he went (as who knows but he might) upon the bare Presumption of an Injury, and relyed upon the Intelligence of a few Sceptical, Obnoxious, and Discontented Germans, who lay under the Imperial Bann. And to mention nothing further, if this very Disputable Right was only an Expectancy which would have admitted of *Slow Forms*, and kept cold well enough till had fallen; as any one might fairly conclude from the Numbers, and Inclinations of his Friends in the Empire; this was a further Aggravation of the Unreasonableness of his War. I confess, if all these hard things are true of the French King, I don't wonder if the Enquirer has levelled a whole Paragraph against Him; and I wish the Emperor may recover just *Damages* for so Secret and Violent an Invasion.

All this while we have been Kings and Emperors, but now we must Reign over our selves no longer, but descend into the Melancholy state of Subjection. However, to do the Author right, he has put the Yoke on so favourably, that whenever we find it galls us we may throw it off again, and return to our former Independency. For he gives us to understand, Sect. 3. That the True and Original Notion of Civil Society and Government, is, that is a *Compromise* made by such a Body of Men, by which they resign up the right of demanding Reparations either in the way of Justice against one another; or in the way of War against their Neighbours; to such a single Person; or to such a Body of Men as they think fit to trust with this. Now then to Examine how our Author comes to know that the Original Notion of Society was the True one. It's pretty apparent his Notion of it is neither Original, nor True; nor Original, because it does not comprehend the most Antient beginning of Government, viz. Paternal Authority and Conquest; in which Cases Men have not the liberty of Attaching for Privileges, but must submit to their Parents, and Conquerors, whether they think fit to trust them or not.

Secondly, His Notion is defective in Point of Truth; for he has only restrained his Men from Acting Arbitrarily upon one another, or from Fighting a Foreign State without Commission; but as for their Government, they may resist them, for all his Definition, when they please; for having reserved nothing but their right of demanding Reparations, either in the way of Justice or War, against their Fellow Subjects, or Neighbour-

bouring States; it follows that one Branch of their Natural Liberty is reserved to them, to Fight their Prince with upon Occasion. This Conclusion, if we had nothing else to infer it, follows evidently from his own Principle; for since Government is only a *Trust* committed by the People to a *Single Person, &c.* and all *Trusts*, as he affirms in this Section, *by their Nature impart, that those to whom they are given, are accountable.* Nothing is more plain, than that they may discharge themselves from Subjection whenever they shall think fit to say, *Their Governours have not kept Touch with them.*

He proceeds to tell us, That the *Executive Power*, when separated from the *Legislative*, is a *plain Trust*, and no more than a Subordinate Authority.

From hence we may observe, *First*, That by this Authors Concessions, the People have not the Legislative Authority, for he owns part of it is in the King; from whence it follows, that the whole Body of the People is not the Supreme Authority, nor consequently can call their Prince to Account, without his own Consent.

Secondly, That part of the Legislative Authority, which is lodged in the People, is not given them at large, to be exerted at their pleasure, but depends upon Stated Rules and Limitations, and can only be exercised by their Representatives in Parliament. Nay, it's so precarious a Privilege, that without the King's leave, they can never make use of it; for it's neither Lawful for them to Convene themselves, nor yet to Sit any longer than the King pleases: For though there is an Act for a Triennial Parliament, yet if the King Omits the Calling of them within that time, there is no provision made to Assemble themselves; which is an Evidence this Power was never conveyed to them by this Act: For if it had, the Methods of putting it in Execution would have been Adjusted; And if the King should refuse to Issue out Writs, the Chancellor would have been Authorized to do it: Which Power upon the Supposition of intermediate Failures, would have been handed down as low as the petty Constables, as it was proposed by the Parliament Assembled in 40 to Charles the First. Now if the People have no share in making of Laws, but by Representation in Parliament, and the Being of this Assembly depends upon the Prince's pleasure, then either the King is the Supreme Authority in the Intervals of Parliament (which may be as long as the Crown thinks fit) or else there is no such thing as a Supreme Authority in the Nation, and consequently no Government. Further, when the Two Houses are actually Convened, when they are Dictating Law and Justice to the Nation, and Cloathed with all the Advantages of Solemnity and Power, they are then no more than Subjects, they are lyable to the highest Penalties, if they are proved guilty of those Crimes
which

which deserve them, for Felony and Treason are expressly excepted out of their Privileges.

But to confute the Author's Notion of Government more fully, and especially to make his Application of it Unservicable, I shall endeavour to prove Two things against him.

First, That a Trust does not always imply the Person accountable to whom it's made.

Secondly, That the Kings of *England* hold their Crown by right of Conquest and Succession; and consequently are no Trustees of the People.

1. A Trust does not always imply the Person accountable to whom it's made, which I shall briefly make good these Three ways.

First, From the common Notion of a Trust.

Secondly, From the Enquirers Concessions.

Thirdly, From a considerable Instance in our own Government.

First, From the common Notion of a Trust: For what is more generally understood by trusting another, than that we lodge our concerns with him, and put them out of our own disposal? When I trust a Man with my Life or Fortune, all People agree, that I put it in his Power to deprive me of both. For to deliver any Property to another with a Power of Revocation, is to trust him, as we say, no farther than we can throw him. He that can recover a Sum of Money he has deposited when he pleases, to speak properly, has it still in his Custody; and trusts his Friend no more than he does his own Coffer. And therefore if we consult our thoughts, we shall find, that a Trust naturally implies an entire reliance upon the Conduct and Integrity of another, which makes us resign up our Liberty or Estate to his Management, imagining them safer in his Hands than in our own. In short, a Trust where there is no third Person to judge of the performance, as in these Facts between Subjects and Sovereign there is not. In this case a Trust includes a Translation of Right, and in respect of the Irrevocableness of it, is of the Nature of a Gift; so that there seems to be only this difference between them, that a Gift ought to respect the Benefit of the Receiver, whereas a Trust is generally made for the Advantage of him who conveys it.

Secondly, By our Author's own Concessions a Trustee is sometimes unaccountable, for he grants a Man may *Sell himself to be a Slave*. (p. 1.) And when he has once put himself into this condition, his Master has an Absolute Sovereignty over him, and an indefeasible right to his service; so that notwithstanding all the unreasonable Usage he may meet with, he can never come into his Freedom again without the consent of his Lord. This I take to be an uncontested Truth, and if it was not, St. Peter's Authority ought to over-rule the dispute. Who charges those who were in this State of servitude, to be *subject to him* Masters with
all

all fear, not only to the good and gentle, but also to the froward,
1 Es. a. 18.

Thirdly, I shall prove the unaccountableness of a Trust from a considerable instance in our own Government. The House of Commons *P. 2* are certainly Trustees for the Towns and Counties who choose them; the People resign up the disposal of their Rights and Properties into their Hands, in hopes of a good management. But suppose they prevaricate in their Employment, and betray their Electors, does this empower the People to lay their Representatives by the heels when they come into the Country, or to punish them farther as their Will does shall think convenient? If so, then the last resort of Justice must lie in the Sovereign Majesty, who have neither capacity to understand the reasons of Government, nor temper and tenderness to manage it. 'Tis pity the Mobile in *Henry the 6th* his Reign had not this discovery, when the Right of choosing Members was limited to Forty Shillings per Annum Freehold; whereas before all Tenures, if not all Degrees, had the liberty to elect, without exception; but this Act in all likelihood bred no less than a Fifth of the Nation from this principal Post in the Government. And if *Columbus* had not given them a hint by finding out the *West-Indies*, and abating the value of Money, their Grievance had continued to this day as heavy as ever. We see therefore that the Author's Notion of a Trust will not hold Water, and if it would, it can do him no Service, for I shall prove in the Second place, that the Kings of England hold their Crown by Right of Conquest and Succession, and consequently are no Trustees of the People. I shall begin with the Point of Succession, which because it's generally received, I shall only mention an Act of Parliament or Two for the proof of it.

In the first of *Edward the Fourth*, (*Rot. Parl.*) where the Proceedings against *Richard the Second* are repealed; it's said, That *Henry Duke of Derby*, afterwards *Henry the Fourth*; *Temerosly* against Right, *Wisdom* and Justice, by Force and Arms, against his Faith and Ligeance, *revred Warr* or Flight in Wales, against King *Richard the Second*; Him *rich* and *imprisoned* in the Tower of London, in great Violence; and *Usurped* and *displaced* upon the Royal Power, Estate, and Dignity. And a little after they add, That the Commons being of this present Parliament, *holding* Justice and *condemning* knowledge of the said *Unright-wise Usurpation* and *Infrusion*; by the said *Henry late Earl of Derby*, upon the said *Crown* of England; *knowing* also certainly without doubt and ambiguity, the Right and Title of our said Sovereign Lord *Richard the Second*; and that by God's Law, *Man's Law*, and the Law of Nature, He and none other, is and ought to be *their* true, right, wise, and *Natural* *sovereign* Lord; and that

He

He was in Right from the Death of the said Noble and Famous Prince his Father, (Richard Duke of York) very just King of the said Realms of England, do take and repute, and will for ever take and repute the said Edward the Fourth, their Sovereign and Leige Lord, and Him and his Heirs to be Kings of England, and none other, according to his said Right and Title.

In the first of Richard the Third, there is another Statute very full to this purpose, which begins, *The Three Estates, &c.* But I shall pass over this, and proceed to the Act of Recognition, made upon King James the First, his coming to the Crown: Wherein it's declared, *That He was Lawfully, Rightfully and Lawfully, Descended of the Body of the Most Excellent Lady Margaret, Eldest Daughter of the Most Renowned King Henry the Seventh, and the High and Noble Princess, Queen Elizabeth his Wife, Eldest Daughter of King Edward the Fourth. The said Lady Margaret being Eldest Sister of King Henry the Eighth, Father of the High and Mighty Princess of Famous Memory, Elizabeth, late Queen of England.* In consideration whereof, the Parliament doth acknowledge King James their only Lawful and Rightful Leige Lord and Sovereign. And as being bound thereunto, both by the Laws of God and Men, They do recognize and acknowledge, that immediately upon the Dissolution and Decease of Elizabeth, late Queen of England, the Imperial Crown of the Realm of England, and all the Kingdoms, Dominions, and Rights belonging to the same; did by Inherent Birth-right, and Lawful and undoubted Succession, Descend and come to his Most Excellent Majesty, as being Lawfully, Justly and Lawfully, next and SOLE HEIR of the BLOOD Royal of this Realm, as it is aforesaid. And thereunto they do most Humbly and Faithfully submit and oblige themselves, they Heirs and Posterities for ever, until the last drop of their Bloods be spent.

So much concerning the Succession, where by the way, we may observe the Deposing Doctrine is directly pronounced unlawful, as appears from the first of Edward the Fourth, which Act continues still unrepealed.

I shall proceed to prove the Norman Conquest, (for I need go no higher) which I shall make good from the best Historians, who lived either in, or near that time; from Domesday Book, and Acts of Parliament.

From Historians, &c. *Orderic Vitalis* (Hist. Norm. Fol. 6.) a Monk of Canterbury at the time of the Conquest, and very intimate with Archbishop Lanfrank, and with him when News came of the Conqueror's Death; Writes, *That William desiring to Establish those Laws and Usages in England, which his Ancestors and himself observed in Normandy; made such Persons, Bishops, Abbots, and other Principal Men, unto whom he thought so unworthy,*

as to be guilty of any incomppliance with his new Model, knowing by whom, and to what Station they were raised. All Religious and Secular Affairs He managed at his pleasure. And after the Historian had related in what Points he disallowed the Authority of the Pope, and Archbishop, he concludes thus. *But what he did in Secular Matters I forbear to Write, because it's not to my purpose, and likewise because any one may guess by what has been deliver'd already, at what rate He order'd the State.*

The next Testimony shall be fetch'd out of Ingulph Abbot of Croyland, an English Man born, Secretary to William when Duke of Normandy, and made Abbot by him. This Author informs us, *That by hard Usage He made the English submit, that He gave the Earldoms, Baronies, Bishopricks, and Prelacies of the whole Nation to his Normans; and scarce permitted any English Man to enjoy any place of Honour, Dominion, or Power* Hist. Croyl. f. 512.

But Gervase of Tilbury (a considerable Officer in the Exchequer in the Time of Henry the Second, and who received his Information from Henry of Blois, Bishop of Winchester, and Grand-child to the Conquerour) is more full to this purpose; which he thus delivers. *After the Conquest of the Kingdom, and the just Subversion of Rebels, when the King himself, and his great Men, had view'd and survey'd their new conquests, there was a strict Enquiry made who there were which had fought against the King, and secur'd themselves by Flight. From these, and the Heirs of such as were Slain in the Field, all hopes of Possessing either Lands or Rents were cut off; for they counted it a great Favour to have their Lives given them. But such as were call'd and solicit'd to Fight against King William, and did not, if by an humble Submission they could gain the Favour of their Lords and Masters, they then had the Liberty of Possessing somewhat in their own Persons, but without any right of leaving it to their Posterity. Their Children enjoying it only at the Will of their Lords: To whom, when they became unacceptable, they were every where outed of their Estates; neither would any restore what they had taken away.*

And when the miserable Natives represent'd their Grievances publicly to the King, informing him how they were spoiled of their Fortunes, and that without Redress, they must be forced to pass into other Countries. At length upon Consultation it was Order'd, *That what they could obtain of their Lords by way of Desert, or Lawful Bargain, they should hold by unquestionable Right; but should not Claim any thing from the Time the Nation was Conquered, under the Title of Succession, or Descent. Upon what great Consideration this was done is manifest, says Gervase: For they being oblig'd to compliance and obedience, to purchase their Lords Favour; therefore, whoever of the Conquered Nation Possess'd Lands, &c. Obtained them not as if they were their Right by Succession, or Inheritance; but as a Reward of their*

Service, or by some Interceding Agreement. Gervase of Tilbury, or the Black Book in the Exchequer, Lib. 2. Cap. de Murodro. de necessar. observ.

The next Testimony I shall produce, is out of *Gulielmus Pictaviensis* (who lived about the time of Inghulph.) This Writer speaking of King William's Coronation, adds; *regni Liberi, regis nepotes, &c.* i. e. whose Children and Posterity shall Govern England by a just Succession, which he Possessed by an Hereditary Bequest; Confirmed by the Oaths of the English, and by the Right of his Sword, Gul. Pict. fol. 206.

Farther, *Ordericus Vitalis*, who lived in the Reign of William the Second, tells us, How William the First Circumvented the Two great Earls of Mercia, and that after Edwin was Slain, and Morcar Imprisoned, then King William began to show himself, and got by his Assistants the best, and most considerable Counties in England, and made Rich Colonels, and Captains of very mean Normans, Oder. Vital. fol. 251.

The same Author relates, That after the Norman Arms overcame England, and King William had reduced it under the Government of his own Laws; he made Fulcard, a Monk of St. Omers, Abbot of Thorney, Ibid. fol. 853.

Henry Arch-deacon of Huntingdon, who lived in the Reign of King Stephen, is full to the same purpose. Anno Gratiae 1066. perfect Dominus Dominator, &c. i. e. In the Year, &c. the great Ruler of Kingdoms brought that to pass, which he had long intended against the English; for he delivered them over to be destroyed by the Rough and Politick Nation of the Normans, fol. 220. And in another place more particularly. When the Normans had Executed the just Decree of God upon the English, and there was not any Person of Quality of English Extraction remaining, but all were reduced to Servitude and Distress, inasmuch that it was Scandalous to be called an English Man, William the Author of this Judgment dyed in the Twenty first Year of his Reign, Ibid. fol. 212.

Matthew Paris, Who wrote towards the end of the Reign of Henry the Third, agrees with the forementioned Testimonies, his Words are these, fol. 5. Dux Normannorum Willielmus, &c. i. e. Duke William having fortified the Cities and Castles, and Garrisoned them with his own Men; Sailed into Normandy with English Hostages, and abundance of Treasure, whom when he had Imprisoned and Secured, he bestowed back into England, that he might liberally distribute the Lands of the English (who were forcibly dispossessed of their Estates) amongst his Norman Soldiers, who had helped him at the Battle of Hastings to subdue the Country; and that little that was left, he put under the Yoke of perpetual Servitude.

And in another place he tells us, That King William brought Bishopsricks and Abbies under Military Service, which before that time had been free from all Secular Servitude; but then every Bishoprick and Abby was Enrolled ac-
cording

according to his Pleasure; and charged how many Knights or Horse-men, they should find for him and his Successors, in times of War, for 7.

I might add many more Authorities of Antient Historians, but these I suppose are sufficient. As for Modern Writers, I shall only cite Mr. Camden, who thus delivers his Sense of this matter, *Britan.* p. 109. *Victor Gulielmus, &c.* i. e. *William the Conqueror*, as it were to make his *Victory* the more remarkable, *Abrogated the greatest part of the English Laws, brought in the Customs of Normandy, and ordered the Pleadings to be in French: And ousting the English of their Antient Inheritances, Assigned their Lands and Mannors to his Soldiers; Yet so as he reserved the Paramount Lordship to himself, and his Successors by Homage; That is, that they all should hold their Estates by the Feudal Laws; and that none but the King should be Independent Proprietors, but rather a sort of limited Trustees, and Occupants in Tenancy.*

From these Citations we have all imaginable Marks of an entire Conquest. The Laws, and Tenures, and in some measure the Language of the Country, were changed: The Saxons were Transplanted into Normandy and dispossessed of their Estates, as appears not only from the forementioned Historians, but from *Dooms-day Book*, where we find, that almost all the great Proprietors were Normans. Now this Survey was made at the latter end of the Conqueror's Reign, many Years after his taking the Oath, which is by some so much insisted upon, as appears from *Inglulphus*.

If it's Objected that *William the First* granted *King Edward's Laws*.

To this I Answer, 1. That most of *King Edward's Laws* were only Penal, and respected Criminals, as we may learn from *Inglulph*, *Hist. Croyland in fine*.

Secondly, These Laws of *King Edward* were not granted by the Conqueror without his own Amendments, and Refinings upon them, as is evident from the Charter of *Henry the First*, as it stands in *Matthew Paris*, fol. 55. *Lagam Regis Edwardi, vobis reddo cum eis Emendationibus quibus Pater eam Emendavit Consilio Baronum suorum*, i. e. I Grant you *King Edward's Laws* with those Amendments which my Father made in them, by the advice of his Barons. And that these last Words may not be thought to weaken the Testimony, it's not improper to observe, that these Alterations are said to be made only by the Advice, not by the Authority of the Barons; and yet these Barons were Normans too, as is sufficiently plain from what has been discoursed already. But,

To Conclude the proofs of this Argument, several of our Parliaments acknowledge *William the First* a Conqueror. The Acts (all of which it would be very tedious to name) run thus in the Preamble, *Edward Rex.*

by the Grace of God, the Fourth after the Conquest, &c. Now this is a plain Concession, that the Rights of the Subjects were derived from the Crown; and in all likelihood was intended to him as much. And therefore, unless the Norman Conquest had been evident and unquestionable, the Lords and Commons, who were always very Tender of their Liberties, would never have consented, that the Statutes should have been Penned in such a Submissive Style.

If it be Objected, That the Conqueror took an Oath to observe the Laws of the Realm.

In Answer to this I observe. 1. That we have seen already in some measure what sort of Laws these were, and how they were managed by him.

Secondly, Neither *Pictaviensis*, *Eadmerus*, *Ordericus*, *Vitalis*, *Henry of Huntington*, or *Matth. Paris*, Write of any Oath taken by the Conqueror. *Florence of Worcester*, is the first that mentions it. *Flor. Wigorn.* fol. 635. The Words of the Oath are these, *Se velle Sanctas Dei Ecclesias, ac Rectores earum defendere, nec non & cunctum Populum sibi subjectum iuxta & Regali Providentia Regere, rectam Legem Statuere & tenere Rapinas Injustaque Judicia penitus interdicere*, i. e. That he would protect Holy Church, and the Hierarchy; that he would Govern all his Subjects fairly, and take a Royal care of their welfare. That he would make Equitable Laws, and observe them, and wholly Prohibit Rapine, and Perverting of Justice. From this I observe Two things.

First, That the Legislative Power was all of it lodged in the Conqueror; Why else did he Swear to make Equitable Laws? For if the Constitution had been settled as it is at present, the Parliament could have hindered him from making any other.

Secondly, The Oath is Couched in very general Terms, and admits of a great Latitude of Exposition, so that the Conqueror was in a manner left at his liberty, to interpret the Obligation, as he thought fit.

Thirdly, This Oath was voluntarily taken by the King some Years after he had forced the whole Nation to Swear Allegiance to him.

We are therefore, if it were only for this reason, to interpret the Oath to his advantage: And to suppose, that he would not Swear himself out of his Conquest, and Reign at the Discretion of those he had so entirely Subdued; so that it should be in their Power to Unking him, either upon a real or pretended Breach of his Oath.

Fourthly, We may observe, that the Kings of England are in full Possession of the Crown, immediately upon the Death of their Predecessors, and therefore King John, Edward the First, and Henry the Fifth, had Allegiance Sworn to them before their Coronation. From whence

whence it follows, that as Swearing does not make them Kings; so neither can Perjury, though truly Objected un-make them again, which will appear more evidently if we consider,

Firstly, That Perjury in it self, does not imply a forfeiture of any Natural or Civil Right; Indeed, the dread of it ties up a Man's Conscience faster, and if he proves guilty, makes him lyable to a severer Vengeance from God Almighty than simple unfaithfulness; upon which account an Oath is counted a considerable security for the performance of a promise. And therefore, for the greater satisfaction of their Subjects, Princes usually Swear to observe those Stated Measures of Justice, which were either fixed by themselves, or their Predecessors. And if they happen to fail in the performance; though they forfeit their Honor, and the Divine Protection; yet there accrues no Right from thence to the People, to re-enter upon their fancied *Original Liberty*. For the Duty of those under Authority, (except where it's expressly conditional) is not Cancelled and Discharged, by the mis-behaviour of their Superiors. For Example; supposing a Father Swears to remit some part of his Authority in the Family, and that he will Govern only by such a prescribed Rule; his forgetting his Oath afterwards, does not void or lessen his Power, nor excuse the Children in their Disobedience. And to make the Instance more direct, if possible. The Kings of *Persia* were Sovereign Monarchs, *αὐτοκράτορες καὶ θεοειδόμενοι*, as *Plutarch* calls them, and were Worshiped as the Images of God, and could never be set aside, but by Death. Yet, these Princes took an Oath at their Inauguration; as *Grotius* observes from *Xenophon*, and *Diodorus Siculus*. Neither was it lawful for them to alter certain Laws, as appears from *Daniel* and *Josaphat*.

The Kings of *Agypt* likewise, as *Grotius* relates from *Diodorus Sic.* had a full, and unaccountable Authority, they did as he speaks *summo Imperio uti*; yet they were bound to the observance of a great many things, which if they neglected to perform, they could not be charged with these Failures while they were living; But after they were dead the Custom was to Arraign their Memories, and deny them the Honor of a Funeral Solemnity: Which punishment was likewise inflicted upon the *Jewish* Kings, who had been very irregular, and oppressive in their Government, *2 Chron.* 24, 25, and 28. 27. From all which it appears, that a King's Swearing at his Coronation does not make his Crown forfeitable, or subject him to the Censure of the People.

And since the Breach of an Oath does not imply a forfeiture of Right; since the Kings of *England* claim their Authority by Conquest and Succession, from hence these Two Corollaries naturally follow.

First,

First, That with us Power always proves it self, unless it appears that it is given up or limited, by any special Agreement.

Secondly, That the Liberties of the Subjects are not founded upon the Reservations of an Original Contract. For a Conquered People must not pretend to make their own Terms. And therefore, their Privileges are not of their own Creating, but Acts of Royal Favour, and Condescensions of Sovereignty.

Indeed, when the People are not forced into Submission, but freely Elect their Monarch; there all remote Inferences, and doubtful Cases, ought to be Interpreted in favour of the Subject; because the Form of the Government had its Beginning from them; and in this Case only it is, that Liberty proves it self. But where the Limitations of a Monarchy, are the Condescensions of a Conqueror, or his Successors, there we are not to stretch the Privilege of the Subject, beyond express Grant.

So that whatever Rights, or Branches of Government, are not plainly conveyed away, must be supposed to be still lodged in the Crown. For since the Prince was once Vested with Absolute Power, and has afterwards bounded himself by his own Voluntary Act, The Abatements of his Authority are to be measured by his own evident Declarations, and not by any conjectural and consequential Arguings. And here that Celebrated Maxim takes undoubted place, *That all Acts which are made in destruction of Common Law, or Antecedent Right, are to be Construed strictly, and not drawn out into Concessions, and parallel Cases.* From whence it follows, That if it was unlawful at first for the Subjects to resist their Sovereign, it must still continue so, unless they can prove he has relinquished this part of his Prerogative, and given them an express Liberty to take up Arms when they think it convenient; which, I believe, will be hard to find in our Constitution.

I Confess, there is a Resistance Charter granted by King John, but such a one as is no ways serviceable to our Author: For,

First, It's a plain Concession from the Crown, and consequently far from the nature of a Mutual and Original Contract.

Secondly, Here is no Deposing Power given in case the Articles were broken: But on the contrary, upon the supposition of a Rupture there is an express Proviso, for the security of the King's Person and Royalty; for a little after the Clause of *Salvo Persona nostra*, we have these remarkable Words, *Et cum futuris Emendatum Intendent nobis fieri prius fecerunt*; That is, if the King should fail in his Promise, and constrain them to make use of Force, When their Grievances were redressed, and they had put themselves in Possession of their Rights; They should then be obliged to obey him as formerly, Matth. Par. p. 219.

Thirdly,

Thirdly, This Charter was extorted from the King in a Menacing and Military manner. The Barons were up in Arms, the City of London declared for them, and received them, and the King was deserted by his own Army; whereas before this Grant, the Subjects had no colour of Authority to Levy Arms against the King. Now Rebellion is a very ill bottom to found our Liberties upon: The advantages which are gained by such monstrous Violences as these, are no more to be insisted on than the Acquisitions of Piracy; and therefore,

Fourthly, This Charter being obtained in such an undutiful and illegal way, is without doubt one great reason among others, why it has been always counted a Nullity; for that it's no part of our Law, I shall fully evince.

First, From the Transactions in the Reign of Henry the Third, for first in this King's Charter there is no notice taken of any Grant made by King John; whereas in the Confirmation of *Magna Charta* by Edward the First, the granting is by Henry the Third is expressly mentioned, and the Liberty recited at large: Which is a plain Evidence, that the one was not looked upon to have the same Authority with the other.

Secondly, That the *Magna Charta* of Henry the Third was a pure Act of Grace to the Subject, and no Confirmation of an Antecedent Right, appears from the Instrument it self, where in the Preamble the King declares, That out of Our mere and free Will, We have given, &c. And towards the end, That for this Our Gift and Grant of these Liberties, Our Arch-bishops, Bishops, &c. have given as the firmest part of their Assurances. Now besides the wording of the Act, which runs as clear for a Voluntary Concession as is possible, the very consideration which was given the Crown, is a sufficient Argument, that the Subjects had no Title to these Liberties before: For who can imagine they would have purchased that which was their own already, at so dear a rate?

Thirdly, This Charter of Henry the Third, though it contains such the same Liberties with the former, yet it has none of the same Ratification, there are no Provisions for Resistance in it; but instead of Distraining and taking of Castles, &c. there was a Solemn Excommunication denounced by the Bishops against all Violators of this Law. So that now the Subjects were evidently returned to their former State of Passive Obedience. And therefore those Barons, who, towards the latter end of this King's Reign, took up Arms in defence of their Privileges, as *Matt. Paris* relates, were disinherited by a Parliament at *Windsor*; which was soon after confirmed in another Parliament at *Westminster*. (Sir W. Raleigh Priv. of Parl. Ap. 1340) More to the same purpose may be seen in the Law called, *Diffin de Kenilworth*:

For

For though this Order was made by no more than a Committee of Twelve Peers; yet they having an Absolute Delegation as to this Point from the King and the Members of Parliament, what they agreed upon has the full Validity of a Law.

Fourthly, That King *John's* Charter, which warrants Resistance (though within a Rule) had never any Legal Authority, is evident from the Militia Act (*14 Car. 2.*) where the Parliament declares, *That the Militia was ever the undoubted Right of his Majesty, and his Predecessors*. But this was a great Mistake, if King *John's* Grant had been Law: For by virtue of that Charter, provided the King receded from his Articles, the Militia was lodged in the Barons, and the People were obliged by Oath to assist them against the Crown. Now, if the case had been doubtful, the Judgment of a Parliament ought to have put an end to the Controversie. This Legislative Council has a Power to interpret, as well as to alter, or enlarge the Constitution; an Authority to tell us what has been, as well as what shall be Law. Such publick Determinations are as it were first and self-evident Principles in our Government; they have a kind of Practical Infallibility in them, and ought not to be disputed, except where they plainly contradict the Laws of God.

Fifthly, and Lastly, If this Singular Charter had ever been part of our Constitution; as it's plain it never was, yet now it can have no manner of Force, because the forementioned Statute concerning the Militia, not only declares it to have been, but likewise to make the Case more incontestable, Enacts it unlawful, to Levy War, *Offensive or Defensive, against the King*. But of this more hereafter.

If it's Objected, That unless we are allowed to Assert our Rights by Force when they are Invaded, the Laws which secure them to us are insignificant; because the King may break down these Fences when he pleases. To this I Answer, That these Laws upon this Supposition are far from being insignificant; because,

First, They are the Boundaries of Right: They clearly distinguish the Property of the Subjects from the Prerogative, so that the Prince can seldom encroach upon them in any considerable Measure, without being Conscious of the Injustice.

Secondly, By virtue of the Laws we are better assured of the Prince's Protection against the Injuries of all our Fellow Subjects; which is no small Advantage.

Thirdly, We have the Prince's Honour, and Conscience, and Interest, to secure us: I say his Interest; for notwithstanding the Subjects were never so well convinced, that Resistance is utterly unlawful, yet it is by no means adviseable, for Princes to try their Patience too far:

far:

far : For Religion has a very slender Influence upon the World now a days. Nothing is more frequent than to see Men live in those Practices which they know to be Immoral. Now Oppression is apt to make wise Men Mad. Nothing touches them so much to the quick, as the breaking in upon their Properties, and the undermining the Publick Securities. And therefore when the Government sits thus uneasy upon them, they will be apt to fly out into Disorders, notwithstanding all the Restraints of Law and Conscience to the contrary. Now since Princes are supposed to be acquainted with the Frailty and Degeneracy of Mankind. This consideration of danger will generally keep them within compass, and check their Arbitrary Designs, though the Principles of Honour and Integrity should happen to prove insignificant. This one would think a sufficient Security ; and more than this, is neither allowed by our Government, neither can it be by any other.

First, We have no reason to believe our Government permits us to maintain our Rights by Arming against our Prince, not only because our Laws plainly declare against all Resistance, (as I shall shew afterwards) but because the Libertys of the Subject were Acts of Grace from the Crown ; and since they had no right to demand them by Force, they must take them upon such Conditions as they are offer'd. Now things standing thus, we have no imaginable reason to conclude our Kings had any intention to forego their irresistible Authority, except they had signed it away in so many Words ; we are not to suppose they would part with such an inestimable Jewel, and be so Prodigal of their Favours, without the plainest Evidence. Indeed the granting this Liberty would be equally prejudicial to Prince and People, and render all Government Impracticable. For,

Secondly, The Ignorance and Partiality of the greatest part of Mankind is such, that to make it Lawful to resist our Governors, whenever we think it necessary, is an infallible Expedient to keep a Nation almost always embroyed, and to banish Peace and Happiness out of the World. Such an allowance as this, does in reality dissolve all Government, and throw us back into a State of Nature. For when a Man may make use of all the Force he can get to redress his Grievances, to carve out his Satisfaction, and to possess himself of all those Rights he fancies he has a Title to ; his owning Authority is but a Complement ; for he is certainly under no Government but his own. He is bound to do no injury 'tis true, but this does not hinder his being independent of Society. For his Obligation to Justice results from the Law of Nature, which binds
him

him to abstain from Fraud and Violence, whether it's enforced by any Municipal Constitution or not.

If it's Objected, That this liberty of Resistance is not to be allowed, but in Cases of extream Necessity, when the Government is in danger of being wounded in its Vitals, and the *Fundamental Laws* are struck at. To this I Answer, That since the People must be Judges of the Exegencies of State, this restraining of Resistance to Cases of Necessity, is no Security to the Common Welfare. For by this Principle whenever a Man, either through Mistake, or Design, believes or pretends to believe, that the *Fundamental Laws* are broken, he has a Warrant to take up Arms and form a Party to dispossess his Governor; and if he can discharge himself of his Allegiance when he pleases, he is actually free, because his Will is in his own Power.

Farther, Except the People are barred from Uniting their Forces against their Governors, there can be no determination of Civil Controversies. For in regard most People are apt to say, they are wronged as often as they lose a Tryal, if they have the liberty of Appealing from the Bench to the Neighbourhood, and may raise all their Friends and Dependents to oppose the Execution of the Judges Sentence; then Right must be resolved into Force, and Justice will be all Sword without any Balance.

Now that the Doctrine of Resistance gives this dangerous Allowance is plain. For though our Author will not permit us the freedom of raising a Civil War, upon the account of *Male Administration in the Execution of the Laws*; yet he has not given us any assurance that other Men will be of his mind. For may they not object that the prospect of having Justice observed, was the principal reason of combining in Society. For all Laws how Fundamental soever, are designed only as means for the distinction, and security of Property, for the punishing of violence and circumvention, and therefore they ought not to be valued above the End. For if the Prince has an unlimited Privilege of corrupting Judges, suborning Witness, and forcing the Execution of unjust Sentences; all other Provisions for Liberty are to little purpose. If we are to submit to all this hardship, because it falls within the compass of *Male Administration*, What do our Fundamental Laws signify? When at this rate, may some Men say, We can neither have Life, Liberty, nor Estate secured to us: So that if Resistance was allowable in any Case, Oppression and Violence in the *Administration of Justice* would Warrant the use of such a Remedy. And if every one who imagined himself injured might beat up for Volunteers to redress his Grievances; the

the Judges and Laws would be the only Criminals in a short time; and all Disputes would be decided by Blows and Blood.

Besides supposing Men were generally agreed, That nothing but the Breach of *Fundamental Laws* would justify Resistance; since the People are made the Judges of this Distinction, they need only be at the Expence of a hard Name for their enlargements; for it's but calling any disgust, or petty Injury a Breach of *Fundamentals*; and the Work is done.

If it be said, That the People are always quiet when they are well used; and never attempt to displace their Governours, but upon just Occasions. To this I Answer, That if the generality of Mankind were Masters of so much Sense and Honesty, as this comes to, Why did they not continue in that State of Nature some Men fancy them in at first? If they had been wise enough to have understood their true Interest, What need they have brought themselves under the Guidance, and Obligation of Laws? If they are so Vertuously enclined, Why did they submit their Wills and Powers to a Publick Regulation? Why should Men so well qualified for the use of their Freedom, be bound to their good Behaviour, and come under the restraints of Pacts and Subjection?

All Authority and Law is a great Reflection upon Mankind; it plainly supposes the generality of us are Weak, Decaysful and Turbulent Creatures. But if we are so full of Understanding and Conscience, as some Men would make us believe; all Governments ought to be broken up, and every Man have his Original Charter of Liberty return'd him. For if we are so fit to be Trusted, and to dispose of our own Actions; it's highly unreasonable to keep us in a State of Ignominy, and Bondage any longer. But English-Men of all others, have the least reason to make Panegyricks upon the Discretion, and Governableness of the People. For not to mention the Barons Wars, How many *Tyler*s and *Cade*s, and *Kent* and *Hammer*s, have we had within the compass of Four hundred Years? What formidable Bodies did those *Masaniello*s bring into the Field; and how near was the State being overturn'd by the Rebellious Levity, and Madnets of the Multitude? And after all these Instances of Confusion, we have certainly little reason to think that *Van People* and *Von Des*, are the same; or that Right and Wrong depends upon Numbers.

From what has been said it's apparent, That there must be an irresistible Power in all Governments. But our Two Houses (whose Authority is nearest to the Kings) have no share in this inviolable Privilege. For least their Legislative Office should make them

them forget their Duty to his Majesty, they are obliged to take the Oaths of Allegiance and Subjection to him, before they are capable of Transacting any business in Parliament, 7 Jac. 1. Cap. 6. Sect. 8. 30 Car. 2. Cap. 1.

From whence it follows; That with us the King, and only he, is the irresistible Power: Neither must this Prerogative be restrained to his Person; but extend to his Authority. For a King cannot be every where himself, neither is he able to punish Offenders by his own single Strength: He must govern by his Ministers, and sometimes by his Armies. Therefore if those who are employed by him, may be opposed, and hindered in the Execution of their Charge, he is as much disabled from pursuing the ends of Government, as if Violence had been offered to himself. Of this Consequence those who made the late *Act of Uniformity*, were well aware; and therefore in the Declaration, which they obliged a considerable part of the Kingdom to make, the Subscriber does not only declare, *That it's not Lawful to take up Arms against the King upon any pretence whatever*, but likewise, *That he abhors that Traiterous Position of taking Arms by the Authority against those Commissioned by him.*

Therefore that Objection which is usually made, does not come up to the Point, viz. That it's Lawful for a private Person to resist an illegal Commissioner of the Kings, when he comes to dispossess him of his Property, or to outrage him in any other respect. For though a Man has the liberty of defending himself from Encroachments in a private way; yet if he calls in Hundreds and Thousands to his Assistance, without the King's Authority, he falls under the censure of the Law. Now the reason why the Constitution permits the use of Force in one Case, and not in the other, is because private Defence, though never so unjustifiably managed, cannot bring any publick Mischief along with it.

But if Men were allowed to arm Towns and Countries when they thought fit to complain; this would be of dangerous Consequence to the State, and make it lyable to perpetual Convulsions; so that we should always either feel or fear the Miseries of a Civil War.

But to proceed with our Author. In his Fourth Section we are told, *That no consideration of Religion binds us to pay more than we owe, nor to extend our Allegiance farther than the Law carries us.*

Which though it's True, yet it's foreign to the Argument. For I shall make it appear farther afterwards, that the Law extend our Submission, which is one part of our Allegiance, to all Cases what-

I suppose this Advice was intended for a preservative against over Dutyfulness; and that his Reader might not be misled by the Church of *England's* Doctrine of *Passive Obedience*.

Now how proper soever such Hints as these may be to some Flegmatick Climates and *Constitutions of Liberties*, I shall not dispute; yet certainly the Enquirer could not have thought them over-seasonable Directions for our Conduct; if he had pleased to consider either the legal Advantages of the Crown, the temper of the English Nation, or the time of his own Writing: But his generous Zeal for the freedom of Mankind, makes him think he can never say, nor do enough.

His Fifth Paragraph supposes an *Original Contract*, and that the Measures of *Obedience are to be taken from thence*, i. e. Once upon a time, when every Man was weary of Governing himself any longer; they agreed by general consent to set one of their own Countrymen over them, or some Stranger they had a fancy for, upon whom they bestowed the *Equivocal Term of King, Sovereign, or Supreme*, i. e. they gave him very glorious Titles without conveying the Power belonging to them; either to make the Royal Pageant ridiculous, or else to give him an occasion to over-rate his Authority, which would be apt to make him stretch it into a *Forfeiture*, in a short time: And possibly the People foreseeing that they should quickly be out of love with being governed, might over Title their Monarch, and make the Principles of the Constitution weak on purpose, that so their *Liberty* might lapse to them the sooner. But that neither *William the First*, nor his lawful Successors received their Crowns by way of Present, is evident to every one, who has seen any thing of our Histories; so that this Notion of the Enquirers is perfectly Chimerical as to us.

For granting, as Mr. *Hunton* Observes, (*Treatise of Monarchy*, pag. 16.) That *Subjection is not immediately founded in Conquest, but in Consent*; yet Consent in such a Case is forced, necessary and unavoidable, and includes an entire Submission to the Conquerors pleasure. Now when a King has his Enemies (for a Conquered People are no other at first) at such an Advantage, he will scarcely be persuaded to put any conditions of *Forfeiture* into his Title, and Reign by their Courtesy. For how frank soever he or his Successors may be in other respects, it's unimaginable to suppose they will give them any Dethroning Power in their *Charter*.

And since the Case stands thus, we may fairly conclude, That that Magnificency of Style, with which our Kings are always mentioned, has a suitable Authority belonging to it; that those August Names

Names of *Imperial Crown, Sovereign, Supream, &c.* which we meet with so often in our Courts of Justice, Conveyances, and Acts of Parliament, are no empty insignificant Sounds, nor ever designed to describe a Precarious Prince, who may be Relisted or Deposed at pleasure.

In his Sixth Section he will allow no Prince to have a Divine Authority, unless he can prove his Delegation by *Prophets, &c.* And yet St. Paul calls the Roman Emperor the Minister of God; and I believe the Enquirer will grant that neither *Claudius*, or any of his Family were Proclaimed by *Bath. Coll.* or Crowned by an Angel from Heaven. I somewhat wonder that our Author should advance such Propositions as these; who grants (Sect. 10.) *That the Submission of the People together with a long Prescription makes a Prince a legal Governor, and when his Power is once settled by Law, he has a good Right to it as any private Person can have to his Property.*

And immediately after he affirms, *That though a Man has acquired his Property by Humane means, such as Succession, &c. yet he has a security for the Enjoyment of it from a Divine Right.*

Now if Prescription and Succession gives a Prince a good *Humane Title*, and this Title is confirmed by the *Rules of Natural and Revealed Religion*. One would think since he is thus secured in his Government by a Divine Right, he had a Divine Right to govern.

But after all I freely yield the Enquirer, *That we cannot reasonably conclude from bare Possession, that it is the Will of God such Persons should be our Governors*; for the most part we ought to conclude the contrary, because, as he well observes, this Argument from Possession *Justifies all Usurpers when they are Successful.*

By his Seventh Paragraph we are to take *Our Measures of Power, and by consequence of Obedience, from the express Laws of the State, from the Oaths which are sworn by the Subject, &c.*

To make this reasoning applicable to the Case in hand, I shall only observe at present, that by his own Concessions (Sect. 13.) *There are many express Laws made which lodge the Militia singly in the King, that make it plainly unlawful upon any pretence whatever, to take up Arms against his Majesty, or any Commissioned by him, and that these Laws have been put into the Form of an Oath, and sworn by all those who have born any Employment in Church or State.*

How well he reconciles the Doctrine of Resistance with these Remarques, will be seen afterwards.

The Eighth Section brings us from Natural Religion, to the Scriptures of the Old Testament, but it's only to shew *That they are not to be made use of in this matter.*

Now

Now under favour, I conceive, These Scriptures are not so foreign to the Point, as the Enquirer supposes. For though the Jewish Government was particularly designed for that People, yet being settled by Divine appointment, it ought to be highly esteem'd and imitated in its standing and general Maxims, by the rest of the World. God perfectly understands the Tempers, Weaknesses, and Passions of Mankind; which makes him infinitely more able to judge what sort of Polity best Answers the Ends of Society. So that whatever is not of a peculiar and temporary Nature in his Establishment, should be the Model of their Government.

And to apply this Observation; since there were no allowances of Resistance in the Jewish Government: But certain Death was the ordained Consequence of Disobedience to the Civil Power, *Deut. 17, 12.* We ought to conclude that such a general Submission is most rational, and advantageous for the publick Good, and therefore are to take it for granted, that all Christian States especially are settled upon this Passive Principle, where there are not express Proofs of the contrary. For it's no Honour to the Memory of our Forefathers, to infer by remote and strained Implications, that they thought themselves wiser than God Almighty.

To the former part of his Ninth Section I have nothing to object, but am ready to joyn Issue with him upon his Notion. As to what he mentions concerning *The State of the Primitive Christians*, I shall have occasion to touch upon it afterwards.

I shall pass over his Tenth Section, as being in a manner comprehended in his Ninth, and proceed to the Eleventh which brings us home to our *English Government*. Where as a Corollary from his former Discourse, he concludes, That the Question in debate *Must be determined by the fixed Laws and Regulations of the Kingdom.*

Which is some comfort; for then we ought not to be over-ruled by any *General Considerations from Speculations* about Original Liberty, or Arbitrary Constructions of *Salus Populi*: Nor yet by the Authorities of Civilians, especially those Foreign ones, who have had a Republican Bias clapt upon their Education. In this Paragraph he informs his Reader, That the *King's Prerogative is bounded*, and that it's Injustice to carry it beyond it's *Legal Extent*, which no one denies. As for his Instance, I cannot well imagine what he brought it for; I hope it was not to try if he could make some People believe that his Majesty had Levy'd Money by his Army, for this he knows is not True. But when any of this Violence happens, he tells us the *Principle of Self-Preservation seems to take place, and to warrant as violent a Resistance.*

It seems to take place, i. e. he is not sure on't. But by his own Concessions he may be sure of the contrary; if the exercise of this, which he calls Self-Preservation, be restrained by the Constitution, whether it is, or nor, besides what has been said already, will appear farther afterwards.

There is nothing more certain than that as he observes, Sect. 12. *The English have their Liberties and Properties secured to them by the Constitution.* But an allowance of fighting their Prince in Defence of these Liberties, &c. is so far from being *Reserved* to them, that it's plainly forbidden by *Many Positive and Express Laws*.

Indeed how is it possible such a Liberty should be *Reserved* in our Government, which as the Enquirer acknowledges, lodges the Militia (*i. e. the Power of the Sword*) singly in the King. So that without his Order, none of his Subjects can Form themselves into Troops, or carry the face of an Army, without being liable to the highest Penalties. And whereas he urges, *That if we have a Right to our Property, we must likewise be supposed to have a Right to preserve it.* He means by Force. To this I Answer,

First, That a Man may have an unquestionable Right to some Things, which he has no Warrant to recover *Vi & Armis*, but must rest the Enjoyment of them, with the Conscience and Prudence of another. E. G. If the Father of a wealthy Person falls into deep Poverty, he has an undoubted Right to a Maintenance out of his Sons Estate, and yet he cannot fairly recover it by Force, without a Legal Provision for this purpose. To bring the Instance nearer home: The Right of making War and Peace, is an Indisputable Branch of the King's Prerogative; yet unless his Subjects assist him, this Authority can seldom be exerted to any Successful effect, because his Majesty cannot Levy Money (which is the Sinews of War.) without the consent of Parliament.

Farther, every one who is injured in his Property, and endeavours the regaining of it by course of Law, has without doubt a Right to have Justice done him. But if the Court, where the Cause is depending, happens to be mistaken, or corrupted, I desire to know whether it's Lawful for him to raise his Arrier Ban upon such a Disappointment?

Our Author is obliged by his Principle to say no; and therefore he must either Answer,

1. That the Party aggrieved ought to appeal to a higher Court; to which it may be replied, That it's possible for him to meet with the same misfortune there; for our Constitution does not pretend to any Infallible, or Impeccable Judges.

2. His Second Answer, must be that this is a Private Case, and therefore a Man is bound to submit to ill usage, rather than disturb the publick Peace: But to this I return, that we may suppose a general failure of Justice through Subornation, Bribery, &c. and then the Oppression will be of a publick and Extensive Nature; and yet if a grievance of this Magnitude should continue unredress'd after complains, our Author will not allow us the benefit of any rougher Methods; for he frankly tells us, *That it's not lawful to Resist the King upon any Presence of ill Administration in the Execution of the Law.* Pag. 14. so that by his own Argument, we may have some very considerable Rights, which it's not justifiable to demand of the Government with a drawn Sword.

Secondly, This Liberty of Resistance dissolves all Government: For as I have already Observ'd, when every man is the Judge of his own Privileges, &c. when he is made the Authentick Interpreter of the Laws, and may use all the force he can get, at his discretion against the State, he is then most certainly to be govern'd by nobody but himself. And therefore,

Thirdly, This Liberty must be the worst security for Peace and Property imaginable, as I shall show more at large by and by.

As for his limiting Resistance, *To plain and visible Invasions.* This is a very feeble Remedy against Confusion. For since every one is made Judge of the Evidence, and the generality are naturally over-credulous, and apt to believe ill of their Governours, when designing Men have once impos'd upon their understandings, and almost hard them out of their senses, then every thing will be plain to them but their Duty. Thus it was plain that *Charles* the First intended to introduce Popery; though possibly never any Person since the Reformation gave better proof of his Adherence to the Church of *England* than that Prince.

Thus likewise at the beginning of this present Revolution, it was plain to the greatest part of the Nation, that his Majesty had made a League with the French King to Extirpate the Protestants and their Religion. Though now the World sees there never was a more Malicious, and unreasonable Calumny invented: But though Reports of this Nature are never so monstrous and nonsensical, yet at this rate we shall never want a Demonstration for a Rebellion; as long as such loose Principles, as the Enquirer advances, are allowed.

His Thirteenth Section contains nothing but Objections, which to do him Justice, are fairly put, considering the small compass they are drawn into. How well he gets clear of the Difficulties

he was sensible of, the Reader must judge; for now we are coming to his

Fourteenth and Dead doing Paragraph, in which he offers to take off all the Arguments, which are made for Non-resistance. Now before I reply distinctly to his Answer, I shall endeavour to offer something more than I have urged already in Confutation of his main Principle.

And here it's not amiss to observe, That the Equivocal in his Ninth Section, *Makes the Measures of our Submission much shorter*, than those of the Ancient Christians, because *Our Religion is Established by Law*. By virtue of which Distinction, he makes our Faith fall under the consideration of Property, and from thence concludes by Implication, That we may resist our Prince in defence of it.

But we are to consider though our Religion has a legal Settlement, yet we have no Authority to maintain it by Force. May our Laws be express as it's possible against all manner of Resistance (as himself acknowledges.) Now the Law is certainly the Measure of all Civil Right, and therefore to carry out our Faith a greater Security than the Law allows, is Destructive of all Government. If the Mobile get this hint, it's to be feared they will give him no occasion in their Second Expedition, to advise them for Burning and Plundering with so much Temper and Moderation.

Further he grants, by Consequence, That the Roman Emperours were irresistible. For I don't find that he allows the Primitive Christians a Liberty of Resistance, though they were invaded in their Lives and Properties, as well as in their Religion.

Now if these Emperours were irresistible, I desire to know what made them so; if he Answers *the Law*, I Reply, That the English Constitution is as full against taking Arms to oppose the King as is possible. If he Replies, That it was unlawful to resist the Roman Emperours, because the making of Laws was wholly in their own Power; but where the Legative Authority is partly in the King, and partly in the People, the Case is otherwise. To this I Answer, That the Division of the Legislative Power does not weaken the Obligation of a Law, when all the Distinct Authorities concur to the making of it. E. G. I Question not but our Author will grant that the English Laws, though the People have a share in Enacting them, are as perfect, and ought to be as inviolable as those in Turkey, where all depends upon the Princes Will: Therefore if the Authority of the Kingdom Declares this Prince Irresistible; this makes him as much so, as if he had given himself this Power by Conquest, and had been the most Absolute Monarch in the World.

And

And as this Privilege is clear, so he may make it Immortal if he pleases, provided he has a Negative upon the Remainder of the Legislative Power (as the King has upon the Two Houses) so that the Constitution cannot be alter'd without his own Consent.

May it the People have given up their Rights of Resistance by their own voluntary Motion, they are bound in Honour as well as Justice to maintain their own Act. So that it seems more unaccountable not to Acquiesce in this Case, than if they had been forc'd into such a Submission.

Though it's not improper to Observe, That the Act which I have now in view (viz. 13 Car. 2) which tells us, *It's unlawful to Levy War against, or Defiance against the King.* Does not so much pretend to vest the King with any new Authority, as to acknowledge his Antecedent Right, where it's likewise Declar'd that *The Will is has ever been the undoubted Right of his Majesty and his Predecessors.*

Which is as plain a Concession as can be, that this Parliament did not believe our Government began upon *Hob's* his Facts, or that the King had his Power Originally from the People. But supposing the Government was Founded in the Voluntary consent of the People (the contrary of which has been proved ;) yet after they have once by the most Solemn and Deliberate Act bound up their Hands, and made it Unlawful under the highest Penalties, to use Force against the Magistrate ; in this Case it's unreasonable to suppose they can resume their Antient Liberty at pleasure. For that which a Man has Alienated by his own free Grant, is as much out of his Power, as if he had never been possess'd of it at all. So that it's as great Injustice to wrest back that, which I have once given away, as to invade my Neighbour in his Original Property.

If it's Objected, That their Laws of Non-resistance as this are to be understood with a *Tacit Exception.* Viz. Provided the Magistrate does not press too hard upon the Constitution, and Violate the most *Fundamental* Parts of it. To this I Answer,

First, If a Law which is so absolutely against all Resistance, as appears both by the clear and comprehensive stile it's Pen'd in, and by the time in which it was Enacted, which was immediately after we were emerged out of the Miseries of a long Rebellion, so that we have all imaginable reason to believe the Wisdom of the Nation design'd to make the most effectual Provision to secure us from the like Calamity. If I say a Law thus remarkquibly worded, and circumstantiated, may be eluded by Distinctions, and Reservations ; then the Statute Book is little better than wast Paper ;

for at this rate there is nothing so plain, but may be glossed away into insignificancy.

If he Objects, That the Natural Right we have to preserve and protect our selves, will justify the Defence of our Lives and Liberties against all Invaders whatsoever, notwithstanding any positive Municipal Prohibitions to the contrary.

To this I Answer, That to Object thus is to Argue against himself, as well as against Reason. For he grants by undeniable Consequence, (Sect. 9.) That the Primitive Christians were obliged to Non-resistance, because they *Lived under a Constitution in which Paganism was Established by Law*. He should have said, In which Christianity was prohibited, for it was possible for both Religions to have been Established, as they were in the time of *Constantine*: Now if a Municipal Law ought to be over-ruled by the Law of Nature when they happen to clash; then the Christians who lived under the Heathen Emperors might Lawfully have taken up Arms against the Government, because they were deprived of their Lives and Fortunes against all Equity and Humanity. For to persecute Men so remarkably Regular and Peaceable, both in their Principles and Practices, is as manifest a Violation of the Law of Nature as is possible. And if it was Lawful for them to resist, then they seem bound in Conscience to do it, whenever they had a probability of prevailing. For without doubt it's a great fault for a Man to throw away his Life, impoverish his Family, and encourage Tyranny, when he has a fair Remedy in his Hand. But our Author has not yet been so severe, as to bring in the *Martyrs Felo de se*. But,

Secondly, The Law of Nature obliges all Men to stand to their Contracts, though they have made them to their Disadvantage. They must not, as the Scripture speaks, change, though they *Have sworn to their own hurt*, *Plal. 15*.

Except the Matter of the Contract be *Malum in se*. But for Men to bar themselves the use of some Liberties (though never so unquestionable) with respect to some particular Persons, and to tie up their Hands in reference to their Governors, is no *Malum in se*, for in such a case they dispose of nothing, but what is their own, and that upon a valuable consideration. Thus much is acknowledged by our Author (Sect. 1.) For he tells us, *That by the Law of Nature a Man may bind himself to be a Servant, or sell himself to be a Slave, by which he becomes in the Power of another, so far as it was provided by the Contract*. So that where the Contract is clear, it ought to be punctually observed. From whence it follows, That when

when a Nation shall Deliberately, and Authoritatively declare, either that it always was Unlawful for them to take up Arms against their King; or at least that it should be so for the future. After they have thus Solemnly disclaim'd all manner of Right, or pretence to Resistance, to defend themselves by Force, is a notorious Infraction of their Promise, and as much a breach of the Moral Law, as of the Statute Book.

Thirdly, Because the Authority of the Constitution must be weakened, and the Ends of Government lost, by allowing the Subject a Latitude of Exposition, therefore the Wisdom of the Nation has thought fit to stick by the Letter, when it's plain and unquestionable, though it is apparently against the intention of the Law.

Of this Practice I shall give a considerable Instance.

In the Reign of Henry the Sixth there was an Act made, (which I have already cited to another purpose) in which all Persons not possessed of Forty Shillings per Annum Free-hold, are declared incapable of Electing Knights for the County. The Design of which Act was to strike the Mob out of the Government, and that none but Persons of presumed Discretion might have a share in choosing their Representatives.

But the value of Money being so prodigiously altered since that time; Fifteen Shillings now, probably being not more than one then; This alteration has thrown the Elections upon Multitudes of People, who are apparently excluded by the intention of that Law. Yet to preserve the Majesty of these publick Provisions inviolable, this Act has always been Religiously observed in the literal Construction, though it's manifestly against the meaning of those who made it.

Fourthly, The Government, and consequently the publick Liberties, are best secured by adhering to the utmost extent of the Words of this Act, i. e. by perpetual Non-resistance, and therefore if we had nothing else to determine us, we may be well assured, it was the intention of the Legislators to oblige us to the Letter.

In order to the proving this more at large, we are to consider, That the World was never yet so happy, as to be Wise, nor I am afraid Honest in the greatest part of its Numbers. Now as long as the gross Body of Mankind are thus unfortunate in their Understandings and Morals, the Peace of Society would be very indifferently secured, if it might be disturb'd by a Civil War, as often as Weak, or Designing Men should alledge their Grievances would Warrant them in Resistance.

Which

which will appear further if we consider, That in all Govern-
ments though error is unexceptionably indulged, there will be al-
ways abundance of Male Content. Some are Distracted because
they think they are not sufficiently taken notice of, which makes
them endeavour to subvert the present Establishment, in hopes of
being better considered in another Revolution. Others are angry
because they are removed from Places of Profit and Reputation,
though possibly they have lost their Post by their own Misbehavior,
or at most the Prince shows no more Arbitrariness in this Case, than
is allowed every private Man, who has the Liberty of changing his
Servants at his pleasure. A Third sort happen to have some private
Dispute with the monarch, which because they cannot Dispute, they
are resolved to revenge that Quarrel upon the King, as if a Man
should murder the Master of the Family, or blow up the House,
only because he is often out with some of the Servants.

This Man has debauched away his Fortune, and who cannot plan-
der upon another, he is under a necessity of starving his Wife,
which makes him lay hold of every Opportunity to embroil the
State. In short, some transgress their Allegiance out of Indigence,
and some out of Spite. Some Conspiracies are strengthened by
Complaisance, because a Man won't be so morose, as to be Loyal,
when his Friends and Acquaintance are on the other Side. Some
Engage out of Curiosity to taste their restless humor, and that
they may try something that is New. And some Revolt to shew
their Parts, that the World may see what an admirable Scheme of
Rebellion they can contrive, and how powerful they are to Ha-
rangue the People out of their Sense and Loyalty. Which is far
from being an impossible Task, for the Multitude are as unstable
as the Wind, always too inclinable of themselves to Envy, and cen-
sure their Governors, which makes them so easily debauched by
every Seditious Impostor.

They have not Capacity enough to discover the Designs of these
pretended Patriots, nor to foresee the Miseries which are conse-
quent to intestine Commotions, nor yet the Compassion and good
Nature to make allowances for the necessary Miscarriages of State.
They are Naturally uneasy, jealous, and over-credulous, which
makes them apt to swallow the most extravagant and impossible
Relations. Tell them that One Man will attempt the assassinating of
Two or Three hundred, though he knows they have all as strong
Arms, and as little Passive Obedience as himself. Tell them that
their Prince intends to Massacre all his Subjects, and to Reign over
nothing but Carcases, and Desarts: That he intends to sell them to a
Foreign

Foreign Nation, though he necessarily make himself a Slave by the bargain; yet all these Absurdities go down currently with them, when they are confidently reported: Though in reality to suppose that Princes will resign their Authority, and throw away their Crowns, is the most improper, and impracticable Thought, we can possibly fix upon them.

Those who are born and bred to Empire and great expectations, and accustomed to the Charms of Sovereignty and Power, who are remarkable for a Noble and Magnanimous Spirit, for sedateness and freedom from Passion, such Persons don't usually fall into those excesses of Mortification and Rigor, as to throw away their Kingdoms, either out of Zeal, or Contempt: But the Populace seldom consider these things; Nay, though it's apparent that it's nothing but the Conscience, the Religious Integrity, and great affection the Prince has to promote the happiness of his Subjects, which makes his Conduct unacceptable to them in some Cases; though his mistakes proceed from no worse Cause than misinformation, or some uneven parts of his Virtues; yet they want either the Apprehension or Candour, to make just abatement for so harmless and generous a Principle: But are as violent in their Censures, and Disobedience, as if he had fetched his Design from Hell, and been the most impetuous and ill-natured Tyrant in the World.

And since Men are generally such unsteady and ungovernable Creatures: Since the Great, the Wise, and the Good, are liable to such fatal Mistakes, and so apt to deceive and pervert each other: Since Ambition and Covise, and Covetousness have the Ascendant over the Generosity, and Shame and Spite are often believed than Truth; in such a State of Degeneracy and Weakness as this, the Government must be built upon a very Sandy Foundation, if every one is made a Judge of the Case of Resistance, and all the Fools and Knaves in a Kingdom may Rebel when they please. Such a Scheme of Politics we may imagine, would fill all Places with Tumults, Blood, and Confusion, and in a short time almost Depopulate the World.

But I understand some Persons Object, That Popery and Arbitrary Power were breaking in like a Torrent upon us, that our Lives, and Liberties, and Religion, were just upon the point of being Ravished. And when such important Interests lie at stake, and we are in danger of losing Two Worlds at once, 'tis time to look about us. In such Cases of Extremity singular methods are allowable, For Necessity justifies whatever is forced upon us. All Oaths of Allegiance all Provisions against Resistance, though never so peremptory and strict

strict, are to be understood with such Exceptions as these: For Laws were made to preserve, and not to destroy us. I shall endeavour to give an Answer to all the parts of this Objection, excepting what relates to Arbitrary Power, which shall be considered afterwards.

First, As for our Religion which is the main Concern, we could not have lost that without our own Faults; no Man can rattle our Thoughts, or rob us of our Understandings. There is no turning of a Creed, if it's not betray'd by Cowardice, or Treachery, it's impregnable.

To which I may add, That Adversity is the best Trial of Mens Sincerity, and gives them Opportunity for the Exercise of the noblest Vertues. Christianity is far from being endamaged by the Patience and Constancy of its Professors. To speak properly, a Church can never flourish so much, as when we have frequent Instances of Fortitude, Resignation, and Contempt of the World, and all other unquestionable Marks of an Heroick and Invincible Honesty.

Secondly, by our Religion, therefore can only be meant, the free, and unmolested Profession of it, which though it's a very desirable Privilege, yet we must not contend for it in Opposition to the Laws of God and our Country. To repel a Persecution by the assistance of Perjury and Treason, is a most unjustifiable and fatal Remedy. 'Tis a Cure far above the Malignity of the Distemper, and conveys Plague and Poison in the Operation; it makes us destroy the very Life and Essence of that which we are to maintain, and damn our selves to secure our Religion. The Primitive Christians were perfect Strangers to these Salves for Ease and Self-Preservation, and yet their Laws could not be plainer against all manner of Resistance than ours.

Besides, no State can subsist upon such Reserves of Interpretation as these. For, as has been observed already, if Resistance is warrantable in any Case, then every individual Person must be made a Judge of his Prince's Conduct, and determine what sort of Provocations, and Opportunities are sufficient to justify a Revolt. Now if such a Liberty was granted, the Foundations of the Earth would quickly be out of Course. Such loose Maxims as these do no less than Proclaim an Indulgence for Anarchy and Licentiousness, and tear up the very Principles of Society by the Roots. For granting the People were generally Honest (though this I am afraid is a supposition, which has much more of Chancy than Judgment in it, yet in regard of distance, into experience, credulity, and shortness of

Thought;

Thought; they are neither fit to pronounce upon the Administration of their Governors, nor capable of distinguishing Imposture from Truth; nor discerning enough to foresee, what Plunderings and Rapes, what Faction and Atheism, what extensive Ruin and Desolation are the inevitable consequences of a Civil War. Now what can we expect but frequent returns of such a Scene of Misery, if every Man may hang out the Flag of Defiance against his Prince, whenever his Weakness or his Wickedness shall prompt him to it. When the Subtle and Ambitious can practise without controul upon the unstable, and unthinking Multitude, and play their Spleen and their Rhetorick against the Government. When Men of Turbulent and Tempestuous Spirits, who love to live in a Storm, that they may gratify their Malice with the Wreck and their Avarice with the Booty. When such Men are allowed to blow up the Simple, and over-credulous into Jealousie and Discontent; and all the Seditious Incendiaries may throw their Flambeaus, and their Wild-fire about a Nation. When such dangerous Freedoms as these (which yet are no more than the Natural consequences of the Doctrine of Resistance) are given; and varnished over with the specious Titles of *The Laws of Nature and Self-Preservation*: We may then easily imagine that Justice and Peace would soon take their leaves of this World, and Mankind would need no other Judgment, but the Effects of their own Vice and Folly to destroy them. But,

Thirdly, Supposing extremity of rigour in Governours would absolve us from our Allegiance (which we see it will not;) yet this was none of our Case.

Indeed if we were to form an Idea of his Majesties Government, by the Tragycal Harangues of some Men, we could not imagine any thing less than the Ten Persecutions had been amongst us; and that a great part of the Nation had been Massacred; and yet, God be thanked, we lived in great Prosperity, free from the Exactions, and Tributary Burthens of other Reigns, and if nothing but his Majesties Severity could have taken us off, we might, for ought appear, have been all Immortal.

Well, say they, Though we were not actually swallowed up, yet we were upon the brink of Destruction; and if our *Deliverers* had not timely Interposed, the King's Dragoons were just going to make their Fire upon the Bible, and the Statute Book; and we must either have been converted to Popery, or Ashes. But,

First, I would gladly know of these Men, why they always twist Popery and Slavery together. For this I can imagine no other reason, except it be to make their Monster more frightful to the

People. For it's certain there is no such inseparable Connexion between these Two things, as is pretended. For had our Fore-Fathers nothing which they could call their own, till the Reformation?

Is not *Magna Charta* a Popish Law? And are there not many liberal Concessions from the Crown before *Edward the Sixth*? And as their Argument has notoriously failed for the time past, so I hope it will never be tryed for the future.

Secondly, This supposal of Severity has as little reason, as Duty and Decency in it. The Clemency and Goodness of his Majesty's Temper (which Character his Enemies are so just to allow him.) The generous Protection, and Assistance he gave the *Hugonots*; his Employing the Protestants in his Court and Camp, and Trusting them with the most important Places and Secrets, those are mighty Evidences that nothing of this horrid Nature was intended.

Besides what Force was there to perform this extraordinary Exploit? I suppose few People are so far over-grown with the Spleen, as to fancy the Protestants would have helped to destroy one another. Now before the certainty of the Invasion, I believe I may safely say, there was not above 10000 Papists in Arms in the Three Kingdoms, and probably not much more than the Tenth part of those in *England*. Ob, but the Irish came over! Not above a Regiment or Two till the Dutch were ready to make a Descent upon us; and when they were most numerous, the English Roman Catholics, and themselves scarcely held the Proposition of One to Two hundred Protestants: And I believe, they did not perceive we were so charmed with the Spirit of Loyalty, or Religion, as to let them cut our Throats without Opposition: For we Protestants, at that time, gave broad Signs, that though our Principles were *Passive*, yet our Hands upon a provocation would be as *Active* as our Neighbours. Therefore as to those Irish who were last sent over, the Kingdom was then threatned with such a powerful Enemy, and the necessity of Affairs was such, that there needs no manner of Apology for their coming; and as for the others who were Transported before, their Numbers were very inconsiderable; and though we did not foresee the Dutch Storm, it's likely his Majesty did.

This is certain the preparations in *Holland* were visible long before their Design was owned, and therefore his Majesty had reason to be upon his Guard. Besides at that time the English were under apparent Discontents, for then the Mystery of Iniquity began to work, and those Hellish Stories, which drove his Majesty out of his Dominions, were reported with great confidence; and a Man was not counted

counted a good Protestant, who would not believe them. How well they have been proved since the World knows.

And here I cannot omit taking notice what a Frantick, and Raging Maxim it is to assert, That it's Lawful for the People to set their Kings aside upon a bare jealousy, and apprehension of Rigour. Give them but this Liberty, and an Impostor will easily fright them into a State of Nature, and carry them whether he pleases. If we may renounce the Government as often as any bold Pretence is made against it, and translate our Allegiance upon conjecture and report, the contests about Dominion would be so frequent and terrible, yet we had better Disband into Solitude, than live any longer together. If Calumnies and Aspersions (and all undemonstrated Reports ought to go for no more) are sufficient to cancel our Obedience, then no Prince can have any Tide as long as there is either Knavery, or Folly in the World. This Principle lays a Foundation for a Rebellion every Week, and renders all Government impracticable. By acting in this manner we put in the Power of Slander and Perjury to determine the weightiest points of Justice, and make it an easie Task to over-turn a Kingdom with a Lye.

If it be urged that it is needless to search after farther proof that the Subversion of Protestantism was intended, because a Prince of his Majesties Perswasion and Zeal must necessarily think himself obliged to pursue a design of this Nature.

Before I return an Answer, I shall just Observe that Religious Zeal, though it acts upon misinformation is really a commendable Quality. For it's an Infalible sign of a good Intention, it argues great Charity to the Soules of Men, and a generous desire to propagate Truth, and to promote the Glory of God. To speak freely, I cannot be heartily angry with a Man (though his Methods of Discipline are never so unacceptable) who, I am perswaded, has no other Design than to carry me to Heaven; though I had much rather he would permit me to go thither my own way, because it's almost impossible I should go any other. For Rigour is usually very unfortunate both to the Profelytes, and Profelyted; It creates Prejudice and Aversion to the one, and makes no more than a Hypocrite of the other.

But to proceed to the Objection, in order to the confuting of which, I shall endeavour to prove these Two things.

First, That his Majesty is not obliged by the Principles of his Church to attempt the Converting his Subjects by Severity.

Secondly, That in all humane probability such a Method would prove Unsuccessful.

First, That his Majesty is not obliged by the Principles of his Church to attempt the Converting his Subjects by Severity. The Doctrine of the Church of *Rome*, I conceive, is to be collected these Four ways, Either from her eminent Divines, The Bulls of Popes, The Decrees of Councils, or the usual Practice; which when a Case is doubtful, ought to be taken for the Sense of a Communion.

To begin with their Divines; *Cassander*, a Person of great Learning and Judgment, and whose Writings were never censured, insists upon gentle Methods for the propagation of Religion, disapproves of Severity, and tells us it has been a miserable occasion of the spreading of Schisme, (*De Offic. Pii Viri*, pag. 187. 196.)

But because it may be objected this Author was more gentle in his Censure, and allowed a greater Latitude than the generality of Communion; I shall subjoin the Testimonies of others of a firmer Principle; and who are well known to carry up Popery to the height.

1. *Thomas Aquinas* yields 22 a. q. 10. Art. 11. c. That Unlawful Worship, Ritus Infidelium (under which Words he comprehends an Heretical Religion; as appears both from this Conclusion, and from his next Question, 22 a. q. 11. 1.) May be tolerated in some cases. Which he proves,

1. Because the Church ought to take her Measures of Government from the Administrations of Providence. Now God permits many ill Practises in the World, lest a forcible Restraint should prevent a greater Good, or prove the occasion of a greater Evil. Therefore Infidels and Hereticks have been sometimes tolerated by the Church, when their Numbers were great, and Discipline could not take place without the hazard of giving great Offence; without occasioning a Commotion (or civil Disturbance) and hindring the Salvation of those who by fair means might by degrees be won over to the Catholick Faith. These Arguments for Toleration are much stronger now, than they were either in *Aquinas*'s Time, or before it: And therefore if he had lived since the Reformation, we have reason to believe he would have pressed them more at large.

Which probably is the reason why Cardinal *Lugo*, who wrote since the Counsel of *Trent*, is more full and particular in the point. For though he won't allow a Toleration but upon a very great Occasion, yet in such a case he acknowledges, That a Catholick Prince may give Liberty of Conscience to his Heretical Subjects. For this Opinion he quotes *Aquinas*, and says he, Was followed by the rest of the Divines,

vines, particularly naming *Suarez, Covineb and Hurtado*. He adds, *That this Practice has been used by many of the most Pious Christian Princes; who Tolerated open Heresie when they could not oppose it without the danger of a greater Inconvenience.* For this Urgent Occasion (*causa gravissima*) is then supposed to happen (as he proves from *Hurtado*,) *When Religion is likely to be more dammified by the denial than by the grant of such an Indulgence, when the People are in danger of growing Mutinous and Disorderly by strict Usage.* And therefore in an Heretical Country such a Liberty of Conscience may be granted without any difficulty: And in a Catholick one too when things are desperate. He proceeds farther, and tells us, *That such an Allowance to Hereticks is a thing Lawful in its self; and therefore when a Prince has passed his promise, he ought punctually to keep it.* *Lugo de Virt. div. Fid. Disp. 19. Sect. 4. Numb. 121. 123. 128. 130.*

We see therefore, That in the Opinion of these Schoolmen (though none of the kindest) we are not to be roughly managed till the Major part of us are gained by dint of Argument, which is so improbable a supposition in *England*, that I think we need not trouble our selves about the Consequences of it.

It's true *Bellarmino* (*de Laicis Lib. 3. Cap. 18.*) pretends to prove by Scripture, the Fathers, and Reason, That Kings ought not to permit a Liberty of Belief, but then he supposes their Authority to be Absolute; as appears from his Instances of the Jewish Kings, and Roman Emperors. Therefore his Doctrine does not oblige Princes, who have only a Part (though a Principal one) in the Legislative Power, especially when a different Communion is Established by the Laws of the Realm, which cannot be Repealed but by consent of Parliament. A King when he exceeds his Prerogative, is in some measure out of the Sphere of Royalty: For though his Subjects are not to resist him, when he Persecutes against Law, yet his Actions, having no Warrant from the Constitution, are altogether Private and Unjustifiable.

Secondly, and Thirdly, The Application of this Remark will give the Decrees of Popes and Counsels, relating to this matter, a fair Interpretation: For neither the Bulls of *Paul* the Fourth, nor *Pius* the Fifth, against Hereticks, nor the Bulls, *Cane* of *Urban* the Eighth, nor the Third Canon of the great Counsel of *Lateran*, in which places, if any where, we have reason to expect this Severity of Doctrine, I say it's neither openly asserted, nor can it be collected from any of these Authorities, That a limited Prince is obliged to break through the Establishment of his Country, and Act Arbitrarily for the sake of Religion; or (which is all one) that a private Man ought to propagate the Orthodox Faith *Vi &*

Armis,

Amal, though he violates the Laws of Civil Justice; as well as Humanity by so doing.

Fourthly, If the Point was dubious, the Practice of the Roman Church ought to determine the Controversie. Now matter of Fact carries it clearly for the favourable Side. To begin with *France*; It is certain that from the time of *Henry the Fourth*, till within these few Years, the Hugonots have had little or no disturbance about their Religion, notwithstanding the Absoluteness of that Monarchy, and the vast Majority of Roman Catholicks amongst them, and yet this Indulgence of their Kings has never been condemn'd as a prevarication of their Duty. To proceed, In the *Cantons* of *Switzerland* the Protestants at this Day enjoy their Perswasion with Ease and Security enough (*Dr. Burnet's Travels*.)

The same Liberty is allowed the Reformed in *Germany* by several Princes of the *Roman* Communion; *viz.* by the Duke of *Newburgh*, the Bishop of *Munich*, the Prince of *Saltschick*, and the Bishop of *Hildesheim*, &c.

And having shew'd that his Majesty is not obliged either by the Doctrine, or Practice of his Church to push things to extremity; I shall prove in the

Second place, That in all Humane probability such a Method must prove Unsuccessful, and consequently the use of it is apparently against his Majesty's Interest.

He that considers the present Circumstances we are in, and takes a full view of the State and Complexion of our Affairs, must conclude it a *Romish* Enterprize to endeavour the Establishing the *Romish* Faith in this Kingdom.

This Religion is not only against the Conscience, but the Grain of the *English* Nation. Many things they are firmly perswaded are Erroneous and Unaccountable, and others they can very hardly reconcile their Temper to, though they thought them True.

In short, there can be no danger that Popery should become the Religion of the Kingdom, since the Abby Lands are possessed by the Layety, and most of the Clergy, by having Families, are engaged in the same Interest. Besides some believe the Church of *Rome* too indulgent, and some too strict a Mother. For we have enough amongst us who will neither stoop to the submissions of Confession, nor bear the overgrown Grandeur of that Church. So that if they had no other Arguments (as they have the best imaginable,) their Spirit would secure their Protestancy.

Now

Now when a People have such strong Convictions to keep them where they are, and such an Unconquerable Aversion to the Roman Communion. When Argument and Inclination lies the same way; When there is Sense and Reason, Scripture and Antiquity, Numbers, Humor and Interests, (all the Motives that Heaven and Earth can suggest) against a Religion, there is little likelihood of its prevailing.

Besides, the circumstance of time would be no small Obstacle to a Design of this Nature. For the Controversie between us has not only been lately handled at large, and drawn down to every vulgar Capacity; but the Victory has fallen indisputably, and entirely on the Church of *England*. Side. And though the Roman Catholics may think otherwise yet as long as the Protestants are of this Opinion, the Effect will be the same. Inasmuch that if we had another Advantage, the fresh Sense of Success and Triumph would almost make us Impregnable. And when things stand in this Posture, as every one that has but half an Eye must now see they do. How well soever a Man may be assured of the Truth of his Religion, he is no more bound to drive against all these Difficulties and Oppositions, than he is to stand in a Sea-Breach. Those Spiritual Directors are fit for *Bedlam*, who will run Princes upon such dangerous Impossibilities, where there is so much hazard without the least glimpse of Success.

Since therefore his Majestys Communion does not force him upon such rigorous and impracticable Designs, as his Enemies would make us believe; since he has neither Duty to oblige, nor Hopes to succeed, nor (for ought appears) Inclination to execute. It seems Unreasonable as well as Uncharitable, to suppose he will disquiet his Age, and disgust his Subjects, and hazard his Kingdoms any more about Disputes of this Nature.

Can we imagine any Prince will venture upon an Expedient, which is demonstratively Feeble and Insufficient; and which to speak softly, has proved so Unfortunate upon the bare presumption of a Tryal? Will he stand a Course, where he knows there are nothing but Rocks and Shallows, without any prospect of Advantage by the Voyage?

No; Self-Preservation and Common-Instinct will keep a Man from such Attempts as these.

But to return more directly to our Author (though I hope, this has been no unreasonable Digression.)

Having shewn, therefore, what an insecure distracted Condition a State must be in, if Subjects were permitted to take up Arms, as often

often as they were abused, or ill disposed : I shall proceed to shew how much safer their Liberties are under the Protection of that Unreproachable, as well as Unpractic'd Virtue of *Passive Obedience*.

And here (as has been already hinted) We have the Honour, and Conscience, and Interest of Princes to secure us ; and how defective soever the Two former Principles may be, the latter must certainly take a firm and universal hold of Mankind.

Few People in their Senses will pursue those Methods, in which the hazard is so apparently over-proportioned to the probability of Success. Now every one knows that Rigour and Oppression is apt to make the Subjects run Riot, though they are under never such strict Obligations to submission. And therefore Princes who have more to lose than others, will be more cautious of giving a colourable Provocation : Besides when they find their Subjects under peaceable Principles, and acknowledging Themselves bound never to disturb their Governours upon any Pretence whatever. This will make them have the less Temptation to Oppress them. This will encourage them to enlarge the Freedom of their People, when they are so well assured their Favours will not be abused. But when Maxims of Resistance are strow'd, and the whole Multitude Authoris'd to determine when this extraordinary Privilege is to be us'd, which must be allowed, otherwise its perfectly insignificant ; for I suppose the Prince will scarcely tell them when they are to Rebel. When such singular Positions as these are Advanc'd, Governours must needs be alarmed, and uneasy, and take the first opportunity to crush their Subjects, and disarm them of that dangerous Power which is so likely to be turned against themselves ; which Design if not actually compassed, would be often attempted ; and consequently the People must be either Enslav'd, or Embroyled. These are the natural Effects of such Licentious Tenets ; they either prove the Inlets of Arbitrary Power, or else keep us in perpetual Commotions, and deprive us of all the Advantages of Society.

Farther, though the Supream Magistrat is unaccountable, yet his Ministers are not. Those who Execute his illegal Commands may be punish'd for their Compliance. And if the present Authority should protect them from Tryal, and stop the Course of Justice, They have the uncertainty of their Princes Humour, the Fears of his understanding their false Conduct, but especially the Vengeance of another Revolution to keep them in awe. Now the Conjunction of all these Arguments for *Passive Obedience*, are found both in Reason and upon Experiment, to be a much better Fence for the Property of the Subject than to authorise Resistance upon any ac-

count whatever. For this cannot be done without making every individual Person a proper Interpreter of so dangerous a Law ; and giving the People leave to discharge themselves of their Allegiance whenever they please. Now to give Pride, and Poverty, and Revenge, a general Liberty to disturb the publick Peace, to allow the Subjects to fire upon the Crown, as often as they are either ambitiously enclined, or unreasonably frighted and imposed upon ; as in effect to let loose the Principles of ruin upon a Nation ; and to arm all the wild and ungovernable Passions of Mankind to its own destruction.

And since Non-resistance has so many Advantages above the contrary Tenent, we ought to interpret the Law I have been speaking of to this Sense ; since not only the plain Words, but the Common-Interest and Safety, require such an Interpretation: For the Design of all Laws being to provide for the general convenience, they are by no means to be set aside, though the keeping of them should prove uneasy to some particular Times and Persons. There is no absolute Security in this World, and therefore we ought to stick to those Measures which afford us the best ; especially when they are legally Established, so that we have no liberty to change them though they were less commodious. And though the Doctrine of Non-resistance may sometimes press hard upon the Subject, yet this very rarely happens, for generally speaking the most Arbitrary Rigors of the Prince are more tollerable than the Miseries of Disobedience, and Civil Distractions.

I shall give a very gentle Instance ; viz. The late Expedition of the Mobile, who besides the Terror and Barbarity of their Irruption, have in a few Days violated more Property than probably has suffered by the stretch of the Prerogative in an Hundred Years.

Therefore since unconditional Submission is the best Expedient to prevent perpetual Broyles and Insurrections, and the only solid Foundation to fix the Government upon ; we ought in Duty to God, and our Country to adhere unalterably to this Doctrine. And if we happen to fall upon a less fortunate Age, we must take our chance contentedly, and rest the event with Providence, and not fly of from those Principles which carry so vast an odds of Advantage in them ; by the Practice of which our Fore-Fathers have been, and our Posterity is likely to be happy.

And now having shewn the unsoundness of his main Principle, a little trouble will Answer the rest of his Arguments.

First, He tells us, *That all general Words are supposed to have a tacit reserve in them, where the matter seems to require it.*

To this I Answer, That in this Case the matter does not seem to require any reserve, because such an Exception would frustrate the Intent of the Law, and undermine Government.

As for his Instances in *Children and Wives*, they come very much short of his Point: For though Children (notwithstanding the general Words in Scripture) are not to do every thing their Parents may command them, yet certainly they are not to enter into Confederacies against them, to Fight them, and turn them out of their Houses upon any provocation whatever; and therefore much less is the Father of their Country to be used in that manner.

His Instance in *Marriage* is as unlucky as the former. Where the Parties swear *unconditionally to cohabit together till Death*, and yet as he observes, it's not doubted but that *Adultery disengages them from their Contract*. But the reason why the universality of the Terms are limited in this Case is, because we have an express Determination of our Saviour to Warrant it (*Matt. 19. 9.*) Let him produce any such Authority, for Resistance, either from Gospel, or Law, and we will yield the Point.

In return to his saying, *Odious Things are not to be suspected, and therefore not to be named.*

I desire to know of him what is more Odious than Knavery, yet all Securities in Law are plain suspicions of such Scandalous dealing, and make express provisions against it, though the Quality of the Persons contracting are never so unequal.

So that if there had been any such Contract between our Kings and People, as some Men fancy, the *Terms of Forfeiture* would no doubt have been as plainly express'd, as they are in private Concerns. And that this is more than a conjecture, is evident from Practice of *Flanders and Poland*, where such express Allowances of Resistance have been actually made, (how Politickly I shall not determine) as appears from *Meierus*, and *Cbytraus*, as they are cited by *Grotius*, (*de Jure Belli, &c. Annot. ad Cap. 4. Lib. I. Sect. 14.*)

Nay himself vindicates the Dutch from the charge of Rebellion against *Philip the Second* upon this Ground, *viz. Because it's confess'd by Historians on all sides that there was an express Proviso in the Constitution of their Government; that if their Prince broke such and such Limits, they were no more bound to obey him, but might resist him, which Original Contract was notoriously broken by the Duke of Alva their Governor.* Reflections upon Parliam. Pacif. p. 6.

I shall give another Instance out of *Tuanus* to this purpose, relating to *Hungary*. This Historian (*Lib. 133.*) informs us, that the Protestant Nobility of that Kingdom, wrote to the States of *Bohe-*

mia,

nia, Sicilia, and Moravia; in which Letters they Complained very much of the hard Usage They had received from the Emperors Ministers, &c. And after a recital of their Grievances, (which were of the most provoking Nature imaginable) They add, that amongst their other Privileges, (which ought to be Confirm'd in every Convention) they have this remarkable one, Granted in the Reign of King Andrew the Second, *An. Dom. 1222.* the Tenour of which is as follows, *viz. That if his Majesty, or any of his Successors should happen at any time hereafter to Act contrary to those Provisions, by which the Privileges and Liberties of the Kingdom were Established, that from thenceforth it should be for ever Lawfull for the Subjects without the least Blame of Disloyalty to Resist and Oppose their Prince.*

This was a Decree to purpose; by vertue of which (as *Thuanus* observes) the Protestant *Hungarians* Justified their Arms against their King: And we may take notice in Contradiction to what our Author Affirms; That such *Odious Things*, and their Remedies too, where they are allowed, are particularly *Named*, and Provided for. Therefore we may fairly Conclude, that where none of this plain Dealing is to be seen, the Constitution does not admit of any such singular Reservations.

Indeed to talk of a Character for Resistance in a Country which has been Conquered so often, and all along Monarchically Governed, seems to be a Romantick Supposition. For can we imagine that when our Kings had fought themselves into Victory and Power, and forc'd a Nation to swear Homage and Submission to them, that they should be so easie as to Article away their Dominions, make their Government Precarious, and give their Subjects leave to Dispose them; as often as they should be pleas'd to say they had broken their Agreement: But the Silence of our Laws and History as to any such Compact, is a sufficient disproof of it; For if there had been any such Enfranchising Instrument, how prejudicial soever it might have been in its Consequence. yet the natural desire of Liberty would have occasioned the preserving it with all imaginable Vigilance: And as it would not have miscarried through Negligence, so if Violence had wrested such a pretended Palladium from us, the Calamity would have got into the Almanack before this time, and been as certainly Recorded as the Destruction of *Troy*.

Since therefore we have no Evidence either for the Possession, or so much as for the Loss of this supposed Privilege, we may certainly conclude we never had it, or at least must grant that no claim can be grounded upon such an Improbable conjecture, for *Idem est non Esse & non Apparere.*

Secondly, Our Author urges, *That when there seems to be a Contradiction between Two Articles in the Constitution, the Interpretation ought to be given in favour of that Article, which is most evident and important.* From whence he proceeds to assert, *That there is a seeming Contradiction between the provisions for the public Liberty, and the renouncing all Resistance.*

And therefore the Constitution ought to be expanded in behalf of the former, as being most advantageous to Government: Now one who had never read the Statute Book, would imagine by this Authors Argument, that we had some Laws for the taking up Arms against the King, as well as others which forbid it; and both equally plain, than which nothing is more false. And upon supposition there was any such Clash in our Acts of Parliament, the Law for Non-resistance being last Enacted must necessarily take place, and Repeal whatever was before Established to the contrary: But,

Secondly, I Answer, That I have already proved that the Rights of the Subject are best secured by Non-resistance; and therefore they are no ways inconsistent, or contradictory, to each other: So that our Liberties had much better lye at the Discretion of Kings, who have much greater Motives than others to do Justice, and give general Satisfaction, than to depend upon the Management and Mercy of the People, and be liable to such Fatal Convulsions which must happen as often as Discontent, and Ambition can impose upon the Weakness and Inconstancy of the Multitude.

Thirdly, His Third Argument is the same with his Second, which he has given us in different Words, That what we want in Weight, may be made up in Number: It begins somewhat Remarkably, *Since it is by Law that Resistance is condemned, we ought not to understand it in such a Sense, as that it does destroy all other Laws.*

First, Now one would have thought that the condemning Resistance, or any other Action by a Law, had been the only way of doing it to any purpose. But this Author seems to draw a consequence of Abatement upon this Doctrine from its Authority, as if it was to be less observed because it is Established by Law. But,

Secondly, To give him rather more advantage than the Construction of his Period will allow. I Answer, That I have already made it appear, that to wrest the Laws from their plainest and most obvious Sense, is to make them perfectly Useless; and that Non-resistance

resistance is the best Expedient to preserve the Laws and every thing else that is valuable : And therefore though *its plain that the Law did not design to lodge the sole Legislative Power in the King*; yet *as its plain that it intended to forbid Resistance in case he should see about it* : For the Law-makers declare in in as full Intelligible Words, as can be conceived, *that the Majesty, the Right Royal, was always the undoubted Right of his Majesty and his Predecessors, and that it is Unlawful to take up Arms against him upon any Pretence whatsoever* : Now if its possible for a Law to make, or declare a Monarch Inresistible, which I suppose no man will deny ; I desire to know whether it can be drawn up in more significant, and demonstrative Terms, than this Act before us ? If it cannot, then our Author has no imaginable reason to dispute this Part of the Kings Prerogative. As for his Instance, *That the Legislative Power is Invaied, and the Constitution of Parliaments Dissolved* : This Charge is Aggravated beyond all Decency and matter of Fact : For its well known, that the King did not pretend to make his Proclamations Equivalent to an Act of Parliament ; and what his Majesty acted by way of Dispensation, was not only directed by the present Judges, but grounded upon a solemn Resolution of all the Twelve in *Hen. 7th* Reign, in a Case seemingly Paralell, which Sentence has been followed by eminent Lawyers since, and never Reversed by Act of Parliament.

As to the Regulation of Corporations, That was a Method begun by Charles the Second, a Protestant Prince, and Applauded by all the Loyal Party of the Nation : Besides the Burroughs were not so prodigiously altered, but that we might have had a good Protestant Parliament out of them, as appears from the Elections made upon the Writs issued out in *August* last, where those who were against Repealing the Penal Laws and Tests, carried it with great odds against the other Party : And since we know his Majesty has returned the Charters to the State of 79.

And here it may not be improper to observe, That Prerogative has been as Remarkably misunderstood at Court in former Ages ; of which several Instances might be given ; but I shall confine my self to the Reign of one, who on all Hands is accounted a most Excellent Prince : I mean King Charles the First.

Now the Lords and Commons in their Petition to the King complain, *That his Majesties Subjects had been charged with Aids, Loans, and Benevolences contrary to Law, and Imprisoned, Confined, and* (undry

undry was molested for non-Payment. That the Subjects had been detained in Prison without certifying the Cause, contrary to Law. That they had been compelled to quarter Soldiers and Mariners contrary to Law. That notwithstanding several Statutes to the contrary, divers Commissions had been issued out under the great Seal of England to try Soldiers and Mariners by Martial Law. (Quarto Car. 1. Rushworth's Coll.)

To this I might add the Levying Ship Money, Coat and Conduct Money, &c. but I am not willing to enlarge upon so unacceptable a Subject, nor to discover the Misfortunes of the Father any further than Justice and Duty to the Son obliges me; I say the Misfortunes, which we see the best Princes through misinformation, or improper advice may sometimes fall into. However I must crave leave to take notice, that these were other manner of Grievances than the Dispensing with Penal Laws, both in respect of the Evidence and Consequences of them; and, yet I am sure, the War which was made by the Subjects upon this Score, is by our Laws declared an Horrid and Notorious Rebellion.

This I mention not to justify the Conduct of the Ministers, but to shew that under these Circumstances a mistake in his Majesty ought rather to be lamented than exposed, and Magnified as such an enflaming Hyperbolical rate. And to this modesty of Behaviour we are now more especially obliged, since his Majesty has promised to Redress past Errors, which is a plain Argument that some of his former Measures are unacceptable to himself, as well as to his Subjects, and that he will not pursue them for the future.

Fourthly, Our Author proceeds to argue, That the Law mentioning the King, or those Commissionated by him, shews plainly that it is designed only to secure him in the Executive Power, for the Word Commission necessarily imports this: Since if it is not according to Law it is no Commission. From whence, I suppose, he infers that those who have it may be resisted. Now that this Inference is wide of the Mark appears.

First, Because when this Law was made, the King was not restrained from Commissionating any Person whatever in the Field, and therefore the Legislature could have no such Design in their View as the Enquirer supposes.

Secondly, The Test Act which was made several Years after the former, though it bars the King from granting Military Commands to those who refused to give the prescribed Satisfaction, that they were no Papists; yet this Statute only declares their Commissions void, and subjects them to some other Penalty; but

it does by no means Authorise the People to rise up in Arms and suppress them, and therefore by undeniable Consequence it leaves the other Law of Non-resistance in full force.

Thirdly, This Law which declares it Unlawful to take up Arms against those who are Commissionated by the King, was designed (as may reasonably be collected from the Time) to combat that pernicious distinction between the King's Person and his Authority, which has been always too prevalent; though in reality it's nothing but the King's Authority which makes his Person Sacred, and therefore the same inviolable Privilege ought to extend to all those who Act under him: Yet notwithstanding this, it has often happened that those who pretend a great Reverence for his Person, make no scruple to seize his Forts, fight his Armies, and destroy those who adhere to him; under the pretence of taking him out of the Hands of Evil Counselors, which has been the most usual, and plausible Colour of subverting the Government. This Act therefore which was made soon after the Restauration, we may fairly conclude, was particularly levelled against this dangerous Maxim, which had so Fatal an Influence upon the late Distractions.

Fourthly and Lastly, The Enquirer urges, *That the King imports a Prince clothed by Law with the Regal Prerogative, but if he goes about to subvert the whole Foundation of the Government, he subverts that by which he has his Power, and by Consequence he Annuls his own Power, &c.*

First, To this it may be Reply'd, That bare endeavouring to do an Action, though the signs of Executing may be pretty broad, is not doing it in the Construction of humane Laws; E. G. Drawing a Sword upon a Man is not Murther. The intention of the Mind is often impossible to be known; for when we imagine a Man is going to do one thing, he may be going to do another, for ought we can tell to the contrary; or, at least, he may intend to stop far short of the Injury we are afraid of. And supposing we had an Authority to punish him, there is no reason that conjecture, and meer presumption should make him forfeit a Right, which is grounded upon clear and unquestionable Law. But,

Secondly, If with reference to the present Case, our Author means that the Government is actually subverted, as he seems plainly to affirm pag. 7. Then I grant the King's Authority is destroy'd, and so is the Property of the Subjects too. For if the Government is dissolv'd, no Man has any Right to Title or Estate, because the Laws upon which their Right is founded, are no longer in Being. But if the Government be so lucky as not to be dissolv'd, then

that the King's Authority remains entire by his own Argument, because it is supposed by the same Constitution which secures the Property of the Subject.

In his Sixteenth Paragraph we have a mighty Stress lay'd upon the Difference between *Male Administration and striking at Fundamentals*, as if it was lawful to resist the Prince in the latter Case, though not in the former. But if this Distinction had been own'd by our Constitution, we may be assured we should have had a plain List of *Fundamentals* set down in the Body of our Laws; particularly we have all imaginable reason to believe that these *Fundamentals* would have been mentioned, and saved by express Clauses and Provisions in those Statutes which forbid Resistance. For without such a direction it would be impossible for the Subject to know how far his Submission was to extend; and when it was lawful to make use of Force. Such an unregulated Liberty would put it into the Power of all popular, and aspiring Male Contents to corrupt the Loyalty of the unwary Multitude; as often as they thought fit to cry out *Break of Fundamentals*. And at this rate it is easy to foresee what a tottering and unsteady condition the State must be in. And therefore according to the old Maxim, (for which there was never more occasion) *Vis Lex non Distinguit, non est Distingendum*.

I have now gon through his Principles, and I think sufficiently shewn the Weakness and Danger of them. And if so, his Catalogue of Grievances signify nothing to his purpose, though there was much more aggravation, and Truth in them than there is.

But time has now Expounded the great Mystery, and made it evident to most Mens Understandings that our Authors Party has fail'd Remarkably in Matters of *Fact*, as well as in Point of *Right*. For they have not so much as attempted to make good the main and most invidious Part of the charge against his Majesty; though (to omit Justice) Honour and Interest has so loudly called upon them to do it. Their giving no Proof after such Impunity of their own Affairs, is a Demonstration they never had any. For how defective soever they may be in other Respects; we must be so just as to allow them Common Sense.

THE END.